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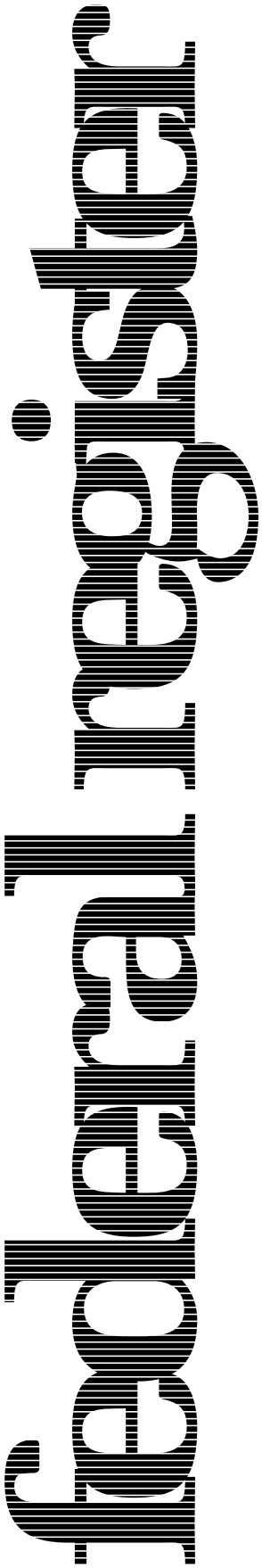

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WASHINGTON, DC

[Two Sessions]

WHEN:	October 17 at 9:00 am and 1:30 pm
WHERE:	Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS:	202–523–4538

Contents

Federal Register

Vol. 60, No. 196

Wednesday, October 11, 1995

Separate Parts In This Issue

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 60, No. 196
Wednesday, October 11, 1995

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 95–063–1]

Imported Fire Ant Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the imported fire ant regulations by designating all or portions of the following as quarantined areas: The entire State of Mississippi; Mecklenburg County in North Carolina; Bradley, Hamilton, McMinn, and Wayne Counties in Tennessee; and Brooks, Cameron, Delta, Dimmit, Duval, Jack, Kenedy, Kinney, Lamar, Mason, McCulloch, Montague, San Saba, Webb, Young, and Zavala Counties in Texas. This action expands the quarantined areas and imposes certain restrictions on the interstate movement of quarantined articles from those areas. This action is necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

DATES: Interim rule effective October 11, 1995. Consideration will be given only to comments received on or before December 11, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–063–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–063–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–5235.

SUPPLEMENTARY INFORMATION:

Background

The imported fire ant regulations (contained in 7 CFR 301.81 through 301.81–10, and referred to below as the regulations) quarantine infested States or infested areas within States and impose restrictions on the interstate movement of certain regulated articles for the purpose of preventing the artificial spread of the imported fire ant.

Imported fire ants, *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, are aggressive, stinging insects that, in large numbers, can seriously injure or even kill livestock, pets, and humans. The imported fire ant feeds on crops and builds large, hard mounds that damage farm and field machinery. The imported fire ant is not native to the United States. The regulations prevent the imported fire ant from spreading throughout its ecological range within this country.

The regulations in § 301.81–3 provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State, that is infested with imported fire ants. The Administrator will designate less than an entire State only under the following conditions: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.81–2 that are equivalent to the interstate movement restrictions imposed by the regulations; and (2) designating less than the entire State will prevent the spread of the imported fire ant. The Administrator may include uninfested acreage within a quarantined area due to its proximity to an infestation or its in separability from the infested locality for quarantine purposes.

We are amending § 301.81–3(e) by designating all or portions of the following counties as quarantined areas: Mecklenburg County in North Carolina; Bradley, Hamilton, McMinn, and Wayne Counties in Tennessee; and Brooks, Cameron, Delta, Dimmit, Duval, Jack, Kenedy, Kinney, Lamar, Mason, McCulloch, Montague, San Saba, Webb, Young, and Zavala Counties in Texas. We are also designating the entire State of Mississippi as a quarantined area. We are taking this action because recent surveys conducted by APHIS and State and county agencies reveal that the imported fire ant has spread to these areas. See the rule portion of this document for specific descriptions of the new quarantined areas.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the artificial spread of imported fire ant to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action affects the interstate movement of regulated articles from specified areas in Mississippi, North Carolina, Tennessee, and Texas. Affected entities include nurserymen, sod and hay growers, farm equipment dealers, construction companies, and others who sell, process, or move regulated articles interstate. Based on information compiled by the Department, we have determined that approximately 74 small entities within the newly regulated areas could be

affected by this interim rule. However, most of the sales for these entities are local intrastate or within the regulated area, and would not be affected by this regulation.

The effect on those entities that do move regulated articles interstate is minimized by the availability of various treatments that, in most cases, will permit the movement of regulated articles with very little additional cost. The projected annual economic impact from this action is estimated to be approximately $187,976.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this program. The assessment provides a basis for the conclusion that the methods employed to regulate the imported fire ant will not significantly affect the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR part 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS, NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.81–3, paragraph (e), the list of quarantined areas is amended as follows:

a. By adding, in alphabetical order, entries for Bradley, Hamilton, and McMinn Counties in Tennessee; and Brooks, Cameron, Delta, Dimmit, Jack, Kenedy, Kinney, Lamar, McCulloch, Montague, San Saba, and Zavala Counties in Texas to read as set forth below.

b. By revising the entry for Mississippi to read as set forth below.

c. By revising the entries for Mecklenburg County in North Carolina; Wayne County in Tennessee; and Duval, Mason, Webb, and Young Counties in Texas to read as set forth below.

§ 301.81–3 Quarantined areas.

* * * * *

(e) * * *

* * * * *

MISSISSIPPI

The entire State.

NORTH CAROLINA

* * * * *

Mecklenburg County. That portion of the county from the Union/Mecklenburg County line west along the Cabarrus/Mecklenburg County line to NC State Road 2459; then south on NC State Road 2459 to State Highway 115, and south to Interstate Highway 77; on Interstate Highway 77 the quarantine will continue to the junction of Interstate Highway 77 with Interstate Highway 85; then southwest on Interstate Highway 85 to the North Carolina/South Carolina State line.

* * * * *

TENNESSEE

Bradley County. That portion of the county southeast of Interstate Highway 75, southwest of the Hiwassee River, northwest of U.S. Highway 11, and northeast of Tennessee State Highway 308.

* * * * *

Hamilton County. That portion of the county lying east of U.S. Highway 27, south of Interstate Highway 24 and west of Interstate Highway 75. That part also of the county lying south of U.S. Highways 41, 64, and 72, and west of Tennessee State Road 38.

* * * * *

McMinn County. That portion of the county southeast of Interstate Highway 75, southwest of Tennessee State Highway 163, northwest of U.S. Highway 11, and northeast of the Hiwassee River.

* * * * *

Wayne County. That portion of the county lying south of U.S. Highway 64, and west of Longitude 870 55′.

TEXAS

* * * * *

Brooks County. The entire county.

* * * * *

Cameron County. The entire county.

* * * * *

Delta County. The entire county.

* * * * *

Dimmit County. The entire county.

Duval County. The entire county.

* * * * *

Jack County. The entire county.

* * * * *

Kenedy County. The entire county.

* * * * *

Kinney County. The entire county.

* * * * *

Lamar County. The entire county.

* * * * *

Mason County. The entire county.

* * * * *

McCulloch County. The entire county.

* * * * *

Montague County. The entire county.

* * * * *

San Saba County. The entire county.

* * * * *

Webb County. The entire county.

* * * * *

Young County. The entire county.

Zavala County. The entire county.

Done in Washington, DC, this 4th day of October 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–25168 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–34–P

7 CFR Part 301

[Docket No. 94–017–2]

Mediterranean Fruit Fly; Regulated Articles and Treatments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with one change, an interim rule that amended the Mediterranean fruit fly regulations by adding two types of lemons to the list of regulated articles; clarifying the requirement for cleaning and waxing lemon (*Citrus limon*), a regulated article; reducing the rate of technical grade malathion required for treating premises for the Mediterranean fruit fly; and removing the requirement that malathion bait spray treatment be applied by ground equipment. These actions were necessary to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States and to lessen restrictions that might cause an unnecessary economic burden upon the public. The change in this final rule is a technical one to correct the amount of protein hydrolysate to be used in the malathion bait spray and to clarify whether ''ounces'' refers to fluid ounces or ounces by weight.

EFFECTIVE DATE: October 11, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–6600.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

The Medfly regulations at 7 CFR 301.78 through 301.78–10 (referred to below as the regulations) established quarantined areas to prevent the spread of the Medfly to noninfested areas of the United States. The regulations impose conditions on the interstate movement of those articles that, if moved without restrictions, present a significant risk of spreading the Medfly from quarantined areas into or through noninfested areas. These articles, which are designated as regulated articles, may not be moved interstate from quarantined areas except in accordance with conditions specified in §§ 301.78–4 through 301.78–10.

In an interim rule effective May 12, 1994, and published in the **Federal Register** on May 18, 1994 (59 FR 25789–25791, Docket No. 94–017–1), we amended the regulations by adding two types of lemons to the list of regulated articles; clarifying the requirement for cleaning and waxing lemon (*Citrus limon*), a regulated article; reducing the rate of technical grade malathion required for treating premises for the Medfly; and removing the requirement that malathion bait spray treatment be applied by ground equipment. These actions were necessary to prevent the spread of the Medfly into noninfested areas of the United States and to lessen restrictions that might cause an unnecessary economic burden upon the public.

We solicited comments concerning the interim rule for 60 days ending July 18, 1994. We received two comments. They were from a State government and a citrus trade association. We carefully considered both comments. They are discussed below in detail.

Comment: The interim rule amended § 301.78–10 by reducing the rate of malathion bait spray treatment from ''2.4'' ounces to ''1.2'' ounces. However, the interim rule did not change the rate of protein hydrolysate required to arrive at the necessary 10 percent solution of malathion. Also, there was some ambiguity concerning weight/volume interpretations in terms of ''ounces'' by weight and ''fluid ounces.'' Section 301.78–10 should state that, to arrive at the necessary 10 percent solution of malathion, 1 fluid ounce (1.2 ounces by weight) of malathion would have to be mixed with 11 fluid ounces (13.4 ounces by weight) of protein hydrolysate per acre for a total of 12 fluid ounces of malathion and protein hydrolysate per acre.

Response: We agree with the premise of this comment. However, to maintain a higher degree of accuracy in our figures and to be consistent in our references to fluid ounces and ounces by weight, § 301.78–10 will be changed to state that, to arrive at the necessary 10 percent solution of malathion, 1.2 fluid ounces (1.4 ounces by weight) of malathion would have to be mixed with 10.8 fluid ounces (13.2 ounces by weight) of protein hydrolysate per acre for a total of 12 fluid ounces of malathion and protein hydrolysate per acre.

Comment: The supplementary information section of the interim rule explained why the regulations exempt from treatment smooth-skinned lemons destined for commercial packing houses. It stated, ''smooth-skinned lemons harvested for packing by a commercial packing house are harvested while hard and green. At this early stage of development, they are not considered susceptible to attack by the Medfly. These smooth-skinned lemons that are packed in commercial packing houses do not present a significant risk of spreading the Medfly into noninfested areas of the United States.'' However, color should not be considered an indication of susceptibility to Medfly attack, as yellow lemons are also harvested and sent to commercial packing houses. Rather, high acid content, hard-to-puncture rind, and lack of suitability as an environment for Medfly are factors that should be used to determine whether commercial variety lemons (*Citrus limon*) that are not overly mature should be exempt from treatment.

Response: We agree, and believe that the language in § 301.78–2 of the interim rule concerning lemon (*Citrus limon*) accommodates this position. That entry reads: ''Lemon (*Citrus limon*) except smooth-skinned lemons harvested for packing by commercial packing houses''. Therefore, no change to the rule is necessary.

Therefore, based on the rationale set forth in the interim rule and in this document, we are adopting the provisions of the interim rule as a final rule, with the change discussed in this document.

This final rule also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine,

Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, with the following change, the interim rule that amended 7 CFR part 301 and that was published at 59 FR 25789–25791 on May 18, 1994.

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.78–10 [Amended]

2. In § 301.78–10, paragraph (c) is amended by revising the last sentence to read: ''The malathion bait spray treatment must be applied at a rate of 1.2 fluid ounces of technical grade malathion (1.4 ounces by weight) and 10.8 fluid ounces of protein hydrolysate (13.2 ounces by weight) per acre, for a total of 12 fluid ounces per acre.''

Done in Washington, DC, this 4th day of October 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–25167 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV95–920–2FIR]

Expenses and Assessment Rate for Marketing Order Covering Kiwifruit Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule authorizing expenditures and establishing an assessment rate under Marketing Order No. 920 for the 1995–96 fiscal year. Authorization of this budget enables the Kiwifruit Administrative Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning August 1, 1995, through July 31, 1996.

FOR FURTHER INFORMATION CONTACT: Rose M. Aguayo, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone (209) 487–5901, Fax # (209) 487–5906; or Charles Rush, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2522–S, Washington, DC 20090–6456; telephone (202) 690–3670, Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 920 (7 CFR part 920), as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, California kiwifruit are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable California kiwifruit during the 1995–96 fiscal year beginning August 1, 1995, through July 31, 1996. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of kiwifruit grown in California who are subject to regulation under the kiwifruit marketing order and approximately 600 producers of kiwifruit in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of kiwifruit producers and handlers may be classified as small entities.

The kiwifruit marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable kiwifruit handled from the beginning of such year. The budget of expenses for the 1995–96 fiscal year was prepared by the Committee, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the Committee are producers of California kiwifruit and one non-industry member. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of kiwifruit. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on June 14, 1995, and unanimously recommended 1995–96 marketing order expenditures of $172,683 and an assessment rate of 1.5 cents per tray or tray equivalent of

kiwifruit. In comparison, 1994–95 marketing year budgeted expenditures were $169,157, which is $3,526 less than the $172,683 recommended for this fiscal year. The assessment rate of 1.5 cents per tray or tray equivalent is .5 cents more than last year's assessment rate of 1.0 cents. The major budget category for 1995–96 is $102,850 for administrative, staff and field salaries.

Assessment income for 1995–96 is estimated to total $135,000 based on anticipated fresh domestic shipments of 9 million trays or tray equivalents of kiwifruit. The assessment income will have to be augmented by $37,683 from the Committee's reserves to provide adequate funds to cover budgeted expenses. Funds in the reserve at the end of the 1995–96 fiscal year are estimated to be $40,245. These reserve funds will be within the maximum permitted by the order of one fiscal year's expenses.

An interim final rule regarding this action was published in the July 13, 1995, issue of the **Federal Register** (60 FR 36032). That rule provided for a 30-day comment period. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that this final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1995–96 fiscal year began on August 1, 1995, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable kiwifruit handled during the fiscal year; (3) handlers are aware of this rule which was recommended by the Committee at a public meeting; and (4) an interim final rule was published on this action and provided for a 30-day comment period; no comments were received.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 920 which was published at 60 FR 36032 on July 13, 1995, is adopted as a final rule without change.

Dated: September 27, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–25131 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1212

[FV–95–701]

Lime Research, Promotion, and Consumer Information Order; Referendum Order and Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments; referendum order.

SUMMARY: The purpose of this rulemaking action is to give notice of a referendum and to provide procedures for which the Department of Agriculture will use in conducting the referendum to determine whether the issuance of the Lime Research, Promotion, and Consumer Information Order is favored by a majority of the producers, producer-handlers, and importers voting in the referendum. The Lime Board at its August 7, 1995, meeting requested that a referendum be held as soon as possible. The referendum order establishes the voting period, representative period, method of voting, and agents.

DATES: This rule is effective October 11, 1995 through December 31, 1995. Comments must be received by October 26, 1995. The representative period for establishing voter eligibility shall be the period from September 1, 1994, through August 31, 1995. A referendum shall be conducted by mail ballot from November 1, 1995, through November 15, 1995.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, Room 2535–S, Washington, DC 20090–6456. Three copies of all written materials should be submitted, and they will be made available for public inspection in the Office of the Docket Clerk during regular working hours. All comments should reference the docket number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Richard Schultz, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, room 2535–S, PO Box 96456, Washington, DC 20090–6456. Telephone (202) 720–5976.

SUPPLEMENTARY INFORMATION: A referendum will be conducted among eligible lime producers, producer-handlers, and importers to determine whether the issuance of the Lime Research, Promotion, and Consumer Information Order (Order) (7 CFR part 1212) is favored by a majority of persons voting in the referendum. The Order is authorized under the Lime Research, Promotion, and Consumer Information Act of 1990, as amended (Act).

The representative period for establishing voter eligibility for the referendum shall be the period from September 1, 1994, through August 31, 1995. Persons who have produced or imported 200,000 or more pounds of limes for the fresh market during the representative period are eligible to vote. The referendum shall be conducted by mail ballot from November 1, 1995, through November 15, 1995.

Section 1960 of the Act provides that the Secretary of Agriculture (Secretary) shall conduct a referendum not later than 30 months after the date on which the collection of assessments begins to determine whether the issuance of the Order is favored by a majority of the producers, producer-handlers, and importers voting in the referendum. Paragraph (b) of section 1960 of the Act requires that the Order continue in effect only if favored by such majority.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1957 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order or any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with law and requesting a modification of the Order

or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After such hearing, the Secretary will make a ruling on the petition. The Act provides that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Regulatory Impact Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionatley burdened.

The Department estimates that there are approximately 50 producers who produce at least 200,000 pounds annually and will be subject to the Order. A majority of producers subject to the Order will be classified as small entities. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $500,000.

The Department estimates that there are approximately 25 first handlers. Further, the Department estimates that there are approximately 35 importers who import at least 200,000 pounds and will be subject to the Order. A majority of first handlers and importers subject to the Order will be classified as small entities. Small agricultural service firms, which include handlers and importers, have been defined by the SBA as those having annual receipts of less than $5,000,000.

Since the enactment of the Act, the character of the lime industry has significantly changed. As a result of the extensive damage to lime orchards in Florida by Hurricane Andrew in August 1992, domestic production has plummeted and the volume of imports has increased dramatically. Domestic production is not expected to reach pre-Hurricane Andrew levels for several more years because Florida accounted for a majority of domestic production.

Shipment reports of domestic limes, from January 1, 1994, through December 31, 1994, indicate truck shipments of 13.5 million pounds from Florida, 4.7 million pounds from California, and 1 million pounds from Texas for a total of 19.2 million pounds. Shipment reports of imported limes for the same 12 month period indicate truck shipments of 292.9 million pounds from Mexico plus an additional 14.4 million pounds from 9 other countries. Imports currently represent roughly 94 percent of lime shipments in the United States.

The Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the referendum ballot has been approved by the Office of Management and Budget (OMB) and has been assigned OMB number 0581–0093. It is estimated that there are approximately 50 producers and producer-handlers and approximately 35 importers who will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to complete the referendum ballot.

Background

The Lime Research, Promotion, and Consumer Information Act of 1990 (1990 Act) (Pub. L. 101–624, 7 U.S.C. 6201–6212) was enacted on November 28, 1990, for the purpose of establishing an orderly procedure for the development and financing of an effective and coordinated program of research, promotion, and consumer information to strengthen the domestic and foreign markets for limes. The Order required by the 1990 Act became effective on January 27, 1992 (57 FR 2985), after notice and comment rulemaking.

In March 1992 the Department conducted nomination meetings to nominate lime producers and importers for appointment to the Lime Board (Board). The Board members were appointed by the Secretary in September 1992 and the Board conducted its first meeting at the Department in Washington, DC in October 1992. During the course of this meeting, the Board and the Department concluded that a technical amendment to the 1990 Act was needed before an order could be implemented. Consequently, full implementation of the Order was delayed until the enactment of such technical amendment.

The Lime Research, Promotion, and Consumer Information Improvement Act (1993 Act) (Pub. L. 103–194, Dec. 14, 1993) contained the necessary technical amendment to properly cover the regulated commodity. The 1993 Act also provided for increasing the exemption level from less than 35,000 pounds annually to less than 200,000; terminating the initial Board; changing the size and composition of the Board; and delaying the initial referendum date.

A proposed rule was published in the April 7, 1994, issue of the **Federal Register** (58 FR 3446) inviting comments on amending the Order to reflect the provisions of the 1993 Act. A final rule was published in the February 8, 1995, issue of the **Federal Register** (60 FR 7435).

In March 1995, as a result of terminating the initial Board under the 1993 Act, the Department conducted nomination meetings to nominate lime producers and importers for appointment to the new Board. The Board members were appointed by the Secretary in June 1995 and the newly constituted Board met at the Department in Washington, DC in August 1995. At this meeting, amid concern over the changing character of the lime industry, the Board voted that a referendum be conducted before the Order is fully implemented to determine industry support.

In response to the Board's vote, the Department is issuing a referendum order and establishing procedures to be used in the conduct such referendum. The interim final rule will add a new § 1212.90 addressing these procedures. This section covers definitions, voting, referendum agent instructions, use of subagents, ballots, the referendum report, and confidentiality of information.

Pursuant to the provisions in U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action formalizes the Department's approval to conduct a referendum as requested by the Board; (2) it is necessary that this rule be in place to conduct a referendum; (3) a 15-day period is provided to allow interested parties to comment prior to finalization; and (4) no useful purpose would be served by a delay of the effective date.

All written comments received in response to this rule by the date specified herein will be considered prior to finalizing this action. A 15-day comment period is considered appropriate because any changes to this rule should be in effect as soon as possible. The referendum begins November 1, 1995.

Referendum Order

It is hereby directed that a referendum be conducted among eligible producers, producer-handlers, and importers to determine whether they favor the issuance of the Order. The representative period for establishing voter eligibility for the referendum shall be the period from September 1, 1994, through August 31, 1995. A referendum shall be conducted by mail ballot from November 1, 1995, through November 15, 1995.

Section 1960(a) of the Act specifies that ''* * * the Secretary shall conduct a referendum among producers, producer-handlers, and importers who (1) are not exempt from assessment * * *; and (2) produced or imported limes during a representative period as determined by the Secretary. Section 1960(b) of the Act further specifies that ''the referendum * * * is for the purpose of determining whether issuance of the order is approved or favored by not less than a majority of the producers, producer-handlers, and importers voting in the referendum. The order shall continue in effect only with such a majority.''

Richard Schultz and Martha B. Ransom, Research and Promotion Branch, Fruit and Vegetable Division, Agricultural Marketing Service, PO Box 96456, Department of Agriculture, Washington, DC 20090–6456, are designated as the referendum agents of the Secretary of Agriculture to conduct this referendum. The procedures described below shall be used to conduct the referendum.

Ballots to be cast in the referendum, and any related material relevant to the referendum, will be mailed by the referendum agents to all known producers, producer-handlers, and importers. Persons who have produced or imported 200,000 or more pounds of limes for the fresh market during the representative period are eligible to vote. Such persons shall establish their eligibility by providing information on the ballot concerning their volume of production or importation. Any eligible producer, producer-handler, or importer who does not receive a ballot and related material should immediately contact the referendum agents.

List of Subjects in 7 CFR Part 1212

Administrative practice and procedure, Advertising, Limes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1212 is amended as follows:

PART 1212—LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1212 continues to read as follows:

Authority: 7 U.S.C. 6201–6212.

2. Section 1212.90 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

Subpart A—Lime Research, Promotion, and Consumer Information Order

§ 1212.90 Referendum procedures.

A referendum to determine whether eligible producers, producer-handlers, and importers favor the issuance of the Order shall be conducted in accordance with these procedures.

(a) *Definitions.* Unless otherwise defined below, the definitions of terms used in these procedures shall have the same meaning as the definitions in the Order.

(1) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(2) *Order* means the Lime Research, Promotion, and Consumer Information Order, part 1212, subpart A, §§ 1212.1 through 1212.89, title 7 of the Code of Federal Regulations, including any amendment to the Order, with respect to which the Secretary has directed that a referendum be conducted.

(3) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(4) *Representative period* means the period designated by the Secretary.

(5) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term ''partnership'' includes, but is not limited to:

(i) A husband and wife who has title to, or leasehold interest in, production facilities and equipment as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property, and

(ii) So-called ''joint ventures'' wherein one or more parties to the agreement, informal or otherwise, contributed capital and others contributed labor, management, equipment, or other services, or any variation of such contributions by two or more parties so that it results in the production or importation of limes and the authority to transfer title to the limes so produced or imported.

(6) *Eligible producer or eligible producer-handler* means any person who produces 200,000 pounds or more of limes during the representative period and who:

(i) Owns or shares in the ownership of production facilities and equipment resulting in the ownership of the limes produced;

(ii) Rents production facilities and equipment resulting in the ownership of all or a portion of the limes produced;

(iii) Owns production facilities and equipment but does not manage them and, as compensation, obtains the ownership of a portion of the limes produced; or

(iv) Is a party in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce limes who share the risk of loss and receive a share of the limes produced. No other acquisition of legal title to limes shall be deemed to result in persons becoming eligible producers or eligible producer-handlers.

(7) *Eligible importer* means any person who imports 200,000 or more pounds of limes during the representative period. Importation occurs when commodities originating outside the United States are entered or withdrawn from the U.S. Customs Service for consumption in the United States. Included are persons who hold title to foreign-produced limes immediately upon release by the U.S. Customs Service, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of limes from the U.S. Customs Service when such limes are entered or withdrawn for consumption in the United States.

(b) *Voting.* (1) Each person who is an eligible producer, producer-handler, or importer, as defined in these procedures, at the time of the referendum and during the representative period, shall be entitled to cast only one ballot in the referendum. However, each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce limes, in which more than one of the parties is a producer, shall be entitled to cast one ballot in the referendum covering only such producer's share of the ownership.

(2) Proxy voting is not authorized, but an officer or employee of an eligible corporate producer, producer-handler, or importer, or an administrator,

executor, or trustee of an eligible producing, producing and handling, or importing entity may cast a ballot on behalf of such entity. Any individual so voting in the referendum shall certify that such individual is an officer or employee of the eligible producer, producer-handler, or importer, or an administrator, executor, or trustee of an eligible producing, producing and handling, or importing entity, and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) *Instructions.* The referendum agent shall conduct the referendum, in the manner herein provided, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedures to be followed by the referendum agent. Such agent shall:

(1) Prepare ballots and related material to be used in the referendum. Ballot material shall provide for recording essential information including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(2) Give reasonable advance public notice of the referendum:

(i) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(ii) By such other means as the agent may deem advisable.

(3) Mail to each eligible producer, producer-handler, and importer, whose name and address is known to the agent, the instructions on voting and a ballot. No person who claims to be eligible to vote shall be refused a ballot.

(4) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of the Office of Inspector General.

(5) Prepare a report on the referendum.

(6) Announce the results to the public.

(d) *Subagents.* The referendum agent may appoint any individual or individuals deemed necessary or desirable to assist the agent in performing such agent's functions hereunder. Each individual so appointed may be authorized by the agent to perform any and all functions which, in the absence of such appointment, shall be performed by the agent.

(e) *Ballots.* The referendum agent and subagents shall accept all ballots cast; but, should they, or any of them, deem that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under these procedures shall not be counted.

(f) *Referendum report.* Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to analysis of the referendum and its results.

(g) *Confidential information.* The ballots and other information or reports that reveal, or tend to reveal, the vote of any person in the referendum shall be held strictly confidential and shall not be disclosed.

Dated: October 4, 1995.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 95–25165 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–02–P

Rural Housing and Community Development Service

Rural Business and Cooperative Development Service

Rural Utilities Service

Consolidated Farm Service Agency

7 CFR Parts 1942 and 1980

RIN 0575–AA12

Rural Business Enterprise Grants and Television Demonstration Grants; Technical Assistance and Training Grants; Nonprofit National Corporations Loan and Grant Program

AGENCIES: Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Rural Business and Cooperative Development Service (RBCDS) and Rural Utilities Service (RUS) amend the agencies' policies and procedures governing the administration of programs which authorize technical assistance as an eligible grant purpose. This action is necessary to implement legislation that prohibits duplication of technical assistance grant funding provided by the Forest Service (FS). The intended effect of this action is to require that grant funds may not be used to pay for technical assistance which duplicates assistance provided under an action plan funded by the FS under the National Forest-Dependent Rural Communities Economic Diversification Act during 5 continuous years from the date of grant approval by the FS.

EFFECTIVE DATE: October 11, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Barton, Loan Specialist, Community Facilities Division, U.S. Department of Agriculture, Room 6304, South Agriculture Building, 14th Street and Independence Avenue SW., Washington D.C. 20250–0700, telephone (202) 720–1504.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Environmental Impact

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It has been determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Executive Order 12778

The proposed regulation has been reviewed in light of Executive Order 12778 and meets the applicable standards provided in sections 2(a) and 2(b)(2) of that Order. Provisions within this part which are inconsistent with state law are controlling. All administrative remedies pursuant to 7 CFR part 1900, subpart B, must be exhausted prior to filing suit.

Paperwork Reduction Act

The information collection or recordkeeping requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control numbers 0575–0132, 0575–0123, and 0575–0121, in

accordance with the Paperwork Reduction Act of 1980. This final rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB.

Background

RBCDS and RUS are implementing section 2375(e) of Pub. L. 101–624, which requires the Secretary of Agriculture to ensure that no substantially similar geographical or defined local area in a state receives a grant for technical assistance to an economically disadvantaged community from the FS and a grant for technical assistance under a designated rural development program as defined in section 365(b)(2) of the Consolidated Farm and Rural Development Act, during any continuous 5-year period.

Discussion of Comments

On March 16, 1994, a proposed rule was published in the **Federal Register** (59 FR 12200) providing for a 30-day review and comment period ending April 15, 1994. One comment was received.

The respondent had misinterpreted the proposed rule change to read that the rule change prohibits an economically disadvantaged community from receiving technical assistance grants from the FS, RBCDS and RUS during 5 continuous years. However, the change prohibits grant funds to an economically disadvantaged community for *duplicate* technical assistance. Grant funds cannot be made available from FS, RBCDS and RUS to an economically disadvantaged community for the same purpose during 5 continuous years. Therefore, the final rule remains unchanged from the proposed rule.

Programs Affected

The programs are listed in the Catalog of Federal Domestic Assistance under Numbers 10.769, Rural Development Grants; 10.761, Technical Assistance and Training Grants; and 10.762, Solid Waste Management Grants. The 10.769 program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. The 10.761 and 10.762 programs are exempt from the provisions of Executive Order 12372. RUS conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1940–J. The Nonprofit National Corporations Loan and Grant Program (NNC) is an old program that is no longer offered, however, the Agency continues to service existing grantees.

List of Subjects in 7 CFR Parts 1942 and 1980

Business and Industry; Community development; Community facilities; Economic development, Grant programs—housing and community development, Grant programs—nonprofit corporations, Industrial park, Loan programs—nonprofit corporations, Rural areas.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1942—ASSOCIATIONS

1. The authority citation for part 1942 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart G—Rural Business Enterprise Grants and Television Demonstration Grants

2. Section 1942.307 is amended by adding a new paragraph (a)(6) as follows:

§ 1942.307 Limitations on use of grant funds.

(a) * * *

(6) To pay for technical assistance as defined in this subpart which duplicates assistance provided to implement an action plan funded by the Forest Service (FS) under the National Forest-Dependent Rural Communities Economic Diversification Act for 5 continuous years from the date of grant approval by the FS. To avoid duplicate assistance, the grantee shall coordinate with FS and Rural Business and Cooperative Development Service (RBCDS) to ascertain if a grant has been made in a substantially similar geographical or defined local area in a State for technical assistance under the above program. The grantee will provide documentation to FS and RBCDS regarding the contact with each agency. Under its program, the FS assists rural communities dependent upon national forest resources by establishing rural forestry and economic diversification action teams which prepare action plans. Action plans are intended to provide opportunities to promote economic diversification and enhance local economies dependent upon national forest resources.

* * * * *

Subpart J—Technical Assistance and Training Grants

3. Section 1942.460 is amended by adding paragraph (g) to read as follows:

§ 1942.460 Limitations.

* * * * *

(g) Pay for technical assistance as defined in this subpart which duplicates assistance provided to implement an action plan funded by the Forest Service (FS) under the National Forest-Dependent Rural Communities Economic Diversification Act for 5 continuous years from the date of grant approval by the FS. To avoid duplicate assistance, the grantee shall coordinate with the FS and Rural Utilities Service (RUS) to ascertain if a grant has been made in a substantially similar geographical or defined local area in a State for technical assistance under the above program. The grantee will provide documentation to FS and RUS regarding the contact with each agency. Under its program, the FS assists rural communities dependent upon national forest resources by establishing rural forestry and economic diversification action teams which prepare action plans. Action plans are intended to provide opportunities to promote economic diversification and enhance local economies dependent upon national forest resources.

PART 1980—GENERAL

4. The authority citation for part 1980 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart G—Nonprofit National Corporations Loan and Grant Program

5. Section 1980.613 is amended by designating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 1980.613 Technical assistance.

* * * * *

(b) Grant funds for technical assistance which duplicates assistance provided under an action plan funded by the Forest Service (FS) under the National Forest-Dependent Rural Communities Economic Diversification Act will not be provided for 5 continuous years from the date of grant approval by the FS. To avoid duplicate assistance, the NNC shall coordinate with the FS and Rural Business and Cooperative Development Service (RBCDS) to determine the best use of available resources and to ascertain if a grant has been made in a substantially similar geographical or defined local area in a State for technical assistance under the above program. The NNC will provide documentation to FS and RBCDS regarding the contact with each agency. Under its program, the FS assists rural communities dependent upon national forest resources by establishing rural forestry and economic

diversification action teams which prepare action plans. Action plans are intended to provide opportunities to promote economic diversification and enhance local economies dependent upon national forest resources.

Dated: September 14, 1995.

Jill Long Thompson,

Under Secretary, Rural Economic and Community Development.

[FR Doc. 95–25017 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–32–U

Office of Inspector General

7 CFR Part 2610

Organization, Functions, and Delegations of Authority

AGENCY: Office of Inspector General, USDA.

ACTION: Final rule.

SUMMARY: The Office of Inspector General amends its regulation relating to organization, functions, and delegations of authority. The amendments are necessary to reflect a reorganization of the Office of Inspector General.

EFFECTIVE DATE: October 11, 1995.

FOR FURTHER INFORMATION CONTACT: Paula F. Hayes, Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Ag Box 2310, Washington D.C. 20250 (202–720–6979)

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are unnecessary and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, because this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined in Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2610

Authority delegations (Government agencies), Organization and functions (Government agencies).

According, part 2610 is revised as follows:

PART 2610—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Sec.

Authority: 5 U.S.C. 301 and 552, Pub. L. 95–452, 5 U.S.C. App., and Pub. L. 97–98, 7 U.S.C. 2270.

§ 2610.1 General statement.

(a) The Inspector General Act of 1978 as amended, Pub. L. 95–452, 5 U.S.C. App., establishes an Office of Inspector General (OIG) in the U.S. Department of Agriculture (USDA) and transfers to it the functions, powers, and duties of offices referred to in the Department as the ''Office of Investigation'' and the ''Office of Audit,'' previously assigned to the OIG created by the Secretary's Memoranda 1915 and 1727, dated March 23, 1977, and October 5, 1977, respectively. Under this Act, OIG is established as an independent and objective unit, headed by the Inspector General (IG), who is appointed by the President and reports to and is under the general supervision of the Secretary.

(b) The mission of OIG is to provide policy direction; to conduct, supervise, and coordinate audits and investigations of USDA programs and operations to determine efficiency and effectiveness; to prevent and detect fraud and abuse in such programs and operations; and to keep the Secretary and the Congress informed of problems and deficiencies relative to the programs and operations.

(c) The Secretary has made the following delegations of authority to the IG (7 CFR 2.33):

(1) Advise the Secretary and General Officers in the planning, development, and execution of Department policies and programs.

(2) Provide for the personal security of the Secretary and Deputy Secretary.

(3) Serve as liaison official for the Department for all audits of USDA performed by the General Accounting Office.

(4) In addition to the above delegations of authority, the IG, under the general supervision of the secretary, has specific duties, responsibilities, and authorities pursuant to the Act, including:

(i) Conduct and supervise audits and investigations relating to programs and operations of the Department.

(ii) Provide leadership, coordination, and policy recommendations to promote economy, efficiency, and effectiveness, and to prevent and detect fraud and abuse in the administration of the Department's program and operations.

(iii) Keep the Secretary and the congress fully and currently informed about problems and deficiencies and the necessity for and progress of corrective actions in the administration of the Department's programs and operations.

(iv) Make such investigations and reports relating to the administration of programs and operations of the Department as are in the judgment of the IG, necessary or desirable.

(v) Review existing and proposed legislation and regulations and make recommendations to the Secretary and the Congress on the impact such laws or regulations will have on the economy and efficiency of program administration or in the prevention and detection of fraud and abuse in the programs and operations of the Department.

(vi) Have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department which relate to programs and operations for which the IG has responsibility.

(vii) Report expeditiously to the Attorney General any matter where there are reasonable grounds to believe there has been a violation of Federal criminal law.

(viii) Issue subpoenas to other than Federal agencies for the production of information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of functions assigned by the Act.

(ix) Receive and investigate complaints or information from any Department employee concerning possible violations of laws, rules or regulations, or mismanagement, gross waste of funds, abuse of authority, or substantial and specific dangers to the public health and safety.

(x) Select, appoint, and employ necessary officers and employees in OIG in accordance with laws and regulations governing the civil service, including an Assistant Inspector General for Auditing and an Assistant Inspector General for Investigations.

(xi) Obtain services as authorized by Section 3109 of Title 5, United States Code.

(xii) Enter into contracts and other arrangements for audits, inspections, studies, analyses, and other services with public agencies and private persons, and make such payments as may be necessary to carry out the provisions of the Act to the extent and in such amounts as may be provided in an appropriation act.

(d) The IG, under the Agriculture and Food Act of 1981, Pub. L. 97–98, 7 U.S.C. 2270, and pursuant to rules issued by the Secretary in 7 CFR part 1a, has the authority to:

(1) Designate employees of the Office of Inspector General who investigate alleged or suspected felony criminal violations of statutes administered by the Secretary of Agriculture or any agency of USDA, when engaged in the performance of official duties to:

(i) Execute and serve a warrant for an arrest, for the search of premises, or the seizure of evidence when issued under authority of the United States upon probable cause to believe that such a violation has been committed;

(ii) Make an arrest without a warrant for any such violation if such violation is committed or if the employee has probable cause to believe that such violation is being committed in his/her presence; and

(iii) Carry a firearm.

(2) Issue directives and take the actions prescribed by the Secretary's rules.

§ 2610.2 Headquarters organization.

(a) The OIG has a headquarters office in Washington, DC, and regional offices throughout the United States. The headquarters office consists of the immediate office of the IG and three operational units.

(b) Operational units. (1) The Assistant Inspector General for Policy Development and Resources Management (AIG/PD&RM) formulates OIG policies and procedures; develops, administers and directs comprehensive programs for the management, budget, financial, personnel, systems improvement, and information activities and operations of OIG; and is responsible for OIG automated date processing (ADP) and OIG information management systems. The staff maintains OIG's directives system; Departmental Regulations and Federal Register issuances; administers the Freedom of Information and Privacy Acts, which includes requests received from the Congress, other Federal agencies, intergovernmental organizations, the news media, and the public; and provides for the administration of an OIG EEO program, including affirmative action. The immediate office of the AIG/PD&RM and two divisions carry out these functions.

(2) The Assistant Inspector General for Audit (AIG/A) carries out the OIG's domestic and foreign audit operations through a headquarters office, a Financial Management and ADP Audit Operations staff located in Kansas City, Missouri, and six regional offices shown in § 2610.3(a). The staff provides a continual audit review of ADP security throughout USDA. Auditing officials conduct operational liaison on audit matters; schedule and conduct audits; release audit reports to management; follow agency action to assure that audit reports have been properly acted upon through review of Department management follow up system; monitor the quality of OIG audit reports; and coordinate activities with the Assistant inspector General (AIG) for Investigations. The staff also provides an integrated approach to fraud prevention and detection and management improvement in USDA programs and operations; reviews Department legislation and regulations through the involvement and cooperation of the Department's principal officers and program managers; coordinates analyses and reports on the conduct of fraud vulnerability assessments; and recommends policies and provides technical assistance for investigative and audit operations. The Auditing headquarters office consists of the immediate office of the AIG/A and four staff divisions.

(3) The Assistant Inspector General for Investigations (AIG/I) carries out the OIG's domestic and foreign investigative operations through a headquarters office and the seven regional offices shown in § 2610.3(b). Investigations officials conduct operational and intelligence liaison on investigative matters with the FBI, Secret Service, Internal Revenue Service (IRS), Interpol, and other Federal and State law enforcement organizations; determine the need for investigative action; conduct investigations; prepare factual reports of investigative findings; refer reports for appropriate administrative or legal action; followup on agency actions to assure that OIG investigative reports have been properly acted upon; monitor the quality of investigative reports; and coordinate activities with the AIG/A. The staff also conducts special investigations of major programs, operations, and high level officials; provides for the protection of the Secretary and Deputy Secretary; receives and processes employee complaints concerning possible violations of laws, rules, regulations or mismanagement. The Investigations headquarters office consists of the immediate office of the AIG/I and three staff divisions.

§ 2610.3 Regional organization.

(a) Each Regional Inspector General for Audit (RIG/A) is responsible to the IG and to the AIG/A for supervising the performance of all OIG auditing activities relating to the Department's domestic and foreign programs and operations within an assigned geographic area. The addresses and telephone numbers of the six Audit Regional Offices and the territories served are as follows:

Audit Region, Address, Telephone Number, and Territory

Northeast Region, ATTN: Suite 5D06, 4700 River Road, Unit 151, Riverdale, Maryland 20737–1237, (301) 734–8763; Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Virgin Islands, Vermont, Virginia, and West Virginia.

Southeast Region, 401 W. Peachtree Street NW., Room 2328, Atlanta, Georgia 30365–3520, (404) 730–3210; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Midwest Region, 111 N. Canal Street, Suite 1130, Chicago, Illinois 60606–7295, (312) 353–1352; Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Southwest Region, 101 South Main, Room 324, Temple, Texas 76501, (817) 774–1430; Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Great Plains Region, 9435 Holmes, Room 233, Kansas City, Missouri 64131, Mailing address: PO Box 293, Kansas City, Missouri 64141, (816) 926–7667; Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wyoming, and Utah.

Western Region, 600 Harrison Street, Suite 225, San Francisco, California 94107, (415) 744–2851; Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Territory of Guam, Trust Territories of the Pacific, and Washington.

(b) Each RIG/I is responsible to the IG and to the AIG/I for supervising the performance of all OIG investigative activities relating to the Department's domestic and foreign programs and operations within an assigned geographic area. The addresses and telephone numbers of the seven Investigations Regional Offices and the territories served are as follows:

Investigations Region, Address, Telephone Number, and Territory

North Atlantic Region, 26 Federal Plaza, Room 1409, New York, New York 10278, (212) 264–8400; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, and Virgin Islands.

Northeast Region, ATTN: Suite 5D06, 4700 River Road, Unit 151, Riverdale, Maryland 20737–1237, (301) 734–8850; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

Southeast Region, 401 W. Peachtree Street NW., Room 2329, Atlanta, Georgia 30365–3520, (404) 730–2170; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Midwest Region, 111 N. Canal Street, Suite 1130, Chicago, Illinois 60606–7295, (312) 353–1358; Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Southwest Region, 101 South Main, Room 311, Temple, Texas 76501, (817) 774–1351; Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Great Plains Region, 9435 Holmes, Room 210, Kansas City, Missouri 64131, Mailing address: PO Box 293, Kansas City, Missouri 64141, (816) 926–7606: Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wyoming, and Utah.

Western Region, 600 Harrison Street, Room 225, San Francisco, California 94107, (415) 744–2887; Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Territory of Guam, Trust Territories of the Pacific, and Washington.

§ 2610.4 Requests for service.

(a) Heads of USDA agencies will direct requests for audit or investigative service to the AIG/A, AIG/I, RIG/A, RIG/I, or to other OIG audit or investigation officials responsible for providing service of the type desired in the geographical area where service is desired.

(b) Agency officials or other employees may, at any time, direct to the personal attention of the IG any audit or investigation matter that warrants such attention.

(c) Other persons may address their communications regarding audit or investigative matters to: The Inspector General, U.S. Department of Agriculture, Ag Box 2301, Washington, DC 20250. Additionally, persons may call or write the hotline office at 202–690–1622, 1–800–424–9121, TDD 202–690–1202, or Office of Inspector General, PO Box 23399, Washington, DC 20026. Bribes involving USDA programs may be reported using the 24 hour bribery hotline number at 202 720–7257.

§ 2610.5 Delegations of authority.

(a) AIG's listed in § 2610.2; and RIG's listed in § 2610.3, are authorized to take whatever actions are necessary to carry out their assigned functions. This authority may be redelegated.

(b) The IG reserves the right to establish audit and investigation policies, program, procedures, and standards; to allocate appropriated funds; to determine audit and investigative jurisdiction; and to exercise any of the powers or functions or perform any of the duties referenced in the above delegation.

Issued at Washington, DC, this 3rd day of October, 1995.

Roger C. Viadero,

Inspector General.

[FR Doc. 95–25124 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–23–M

7 CFR Part 2620

Availability of Information to the Public

AGENCY: Office of Inspector General, USDA.

ACTION: Final rule.

SUMMARY: The Office of Inspector General amends its regulations relating to the availability of information to the public to reflect a reorganization of the Office of Inspector General.

EFFECTIVE DATE: October 11, 1995.

FOR FURTHER INFORMATION CONTACT: Paula F. Hayes, Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Ag Box 2310, Washington, D.C. 20250 (202–720–6979).

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are unnecessary and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, because this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined in Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2620

Freedom of information.

Accordingly, 7 CFR part 2620 is revised to read as follows:

PART 2620—AVAILABILITY OF INFORMATION TO THE PUBLIC

Sec.

Authority: 5 U.S.C. 301 and 552; 5 U.S.C. App.

§ 2620.1 General statement.

This part is issued in accordance with, and subject to, the regulations of the Secretary of Agriculture § 1.1 through § 1.23 (and Appendix A of subpart A of part 1) of this title, implementing the Freedom of Information Act, 5 U.S.C. 552, and governs the availability of records of the Office of Inspector General (OIG) to the public upon request.

§ 2620.2 Public Inspection and copying.

5 U.S.C. 522(a)(2) requires that certain materials be made available for public inspection and copying, and that a current index of these materials be published quarterly or otherwise made available. OIG does not maintain any materials within the scope of these requirements.

§ 2620.3 Requests.

(a) Requests for OIG records shall be in writing in accordance with § 1.6(a) of this title and addressed to the Assistant Inspector General for Policy Development and Resources Management (AIG/PD&RM), Office of Inspector General, U.S. Department of Agriculture, Ag Box 2310, Washington, D.C. 20250. The above official is hereby delegated authority to make determinations regarding such requests in accordance with § 1.3(a)(3) of this title.

(b) Requests should be reasonably specific in identifying the record requested and should include the name, address, and telephone number of the requester.

(c) Available records may be inspected and copied in the office of the AIG/PD&RM, from 8 a.m. to 4:30 p.m. local time on regular working days or may be obtained by mail. Copies will be provided upon payment of applicable fees, unless waived or reduced, in accordance with the Department's fee schedule as set forth in Appendix A of subpart A of part 1 of this title.

§ 2620.4 Denials.

If the AIG/PD&RM determines that a requested record is exempt from mandatory disclosure and that discretionary release would be improper, the AIG/PD&RM shall give written notice of denial in accordance with § 1.8(a) of this title.

§ 2620.5 Appeals.

The denial of a requested record may be appealed in accordance with § 1.6(e) of this title. Appeals shall be addressed to the Inspector General, U.S. Department of Agriculture, Ag Box 2301, Washington, D.C. 20250. The Inspector General will give prompt

notice of the determination concerning an appeal in accordance with § 1.8(d) of this title.

Issued at Washington, D.C. this 3rd day of October, 1995.

Roger C. Viadero,

Inspector General.

[FR Doc. 95–25123 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–23–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–178–AD; Amendment 39–9388; AD 95–21–03]

Airworthiness Directives; Learjet Model 31A and 60 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Learjet Model 31A and 60 airplanes. This action requires an inspection to identify the serial numbers of the engine fire pull switch assemblies, and replacement of the assembly with a serviceable assembly, if necessary. This amendment is prompted by a report indicating that certain engine fire pull switch assemblies may contain microswitches that were manufactured with internal defects. Such defects could result in electrical failure of the switch in the open or closed position. The actions specified in this AD are intended to prevent failure of the switch, which could result in the inability of the flight crew to shut down certain systems or to arm the fire extinguishers due to inoperation of the fire tee handle, or inadvertent shutdown of one or both engines due to fuel starvation.

DATES: Effective October 26, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 26, 1995.

Comments for inclusion in the Rules Docket must be received on or before December 11, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–178–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. The service information referenced in this AD may be obtained from Gates Learjet, Mid-Continent Airport, P. O. Box 7707, Wichita, Kansas 67277. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: C. Dale Bleakney, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; telephone (316) 946–4135; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that a certain batch of engine fire pull switch assemblies may contain microswitches that were manufactured with internal defects. These assemblies are installed on Learjet Model 31A and 60 airplanes. The left-hand (pilot) and right-hand (copilot) engine fire pull switch assemblies contain four microswitches each, all of which may be affected. Such internal defects can cause electrical failure of the switch in the open or closed position, regardless of the position of the ENG FIRE PULL tee handle. If the switch fails in the open position, the fire tee handle would be inoperable. This condition, if not corrected, could result in the inability of the flight crew to shut down certain systems (such as the fuel or hydraulics system) or to arm the fire extinguishers. Failure of the switch in the closed position could result in fuel starvation. This condition, if not corrected, could result in inadvertent shutdown of one or both engines during flight.

The FAA has reviewed and approved Learjet Alert Service Bulletin SB A31–26–3 (for Model 31A airplanes) and SB A60–26–1 (for Model 60 airplanes), both dated July 14, 1995, which describe procedures for an inspection to identify the serial numbers of the left-hand (pilot) and right-hand (copilot) engine fire pull switch assemblies, and replacement of any suspect assembly with a serviceable assembly. Replacement of suspect assemblies will restore the integrity of the engine fire pull switch.

Since an unsafe condition has been identified that is likely to exist or develop on other Learjet Model 31A and 60 airplanes of the same type design, this AD is being issued to prevent electrical failure of the microswitches in the engine fire pull switch assembly, which could result in the inability of the flight crew to shut down certain systems or to arm the fire extinguishers, or inadvertent shutdown of one or both engines. This AD requires an inspection to identify the serial numbers of the left-hand (pilot) and right-hand (copilot) engine fire pull switch assemblies, and replacement of any suspect assembly with a serviceable assembly. The actions are required to be accomplished in accordance with the alert service bulletins described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA–public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–178–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–21–03 Learjet: Amendment 39–9388. Docket 95–NM–178–AD.

Applicability: Model 31A airplanes, serial numbers 31–093 through 31–108 inclusive; and Model 60 airplanes, serial numbers 60–034 through 60–061 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical failure of the microswitches in the engine fire pull switch assembly, which could result in the inability of the flight crew to shut down certain systems or to arm the fire extinguishers, or inadvertent shutdown of one or both engines, accomplish the following:

(a) For Model 31A airplanes: Within 50 hours time-in-service after the effective date of this AD, perform an inspection to identify the serial numbers of the left-hand (pilot) and right-hand (copilot) engine fire pull switch assemblies in accordance with Learjet Alert Service Bulletin SB A31–26–3, dated July 14, 1995.

(1) If the serial number of the assembly is not identified as 2326, 2363 through 2377 inclusive, or 3000 through 3019 inclusive: No further action is required by this AD.

(2) If the serial number of the assembly is identified as 2326, 2363 through 2377 inclusive, or 3000 through 3019 inclusive: Prior to further flight, replace the engine fire pull switch assembly with a serviceable assembly in accordance with the alert service bulletin.

(b) For Model 60 airplanes: Within 50 hours time-in-service after the effective date of this AD, perform an inspection to identify the serial numbers of the left-hand (pilot) and right-hand (copilot) engine fire pull switch assemblies in accordance with Learjet Alert Service Bulletin SB A60–26–1, dated July 14, 1995.

(1) If the serial number of the assembly is not identified as 106 through 168 inclusive: No further action is required by this AD.

(2) If the serial number of the assembly is identified as 106 through 168 inclusive: Prior to further flight, replace the engine fire pull switch assembly with a serviceable assembly in accordance with the alert service bulletin.

(c) As of the effective date of this AD, no person shall install on any airplane an engine fire pull switch assembly having a serial number identified in paragraph (c)(1) or (c)(2) of this AD, as applicable, unless such serial number is preceded by the letters ''RS'' and accompanied by a repair date code later than June 1, 1995.

(1) For Model 31A airplanes: Serial numbers 2326, 2363 through 2377 inclusive, and 3000 through 3019 inclusive.

(2) For Model 60 airplanes: Serial numbers 106 through 168 inclusive.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspection and replacement shall be done in accordance with Learjet Alert Service Bulletin SB A31–26–3, dated July 14, 1995, and Learjet Alert Service Bulletin SB A60–26–1, dated July 14, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Gates Learjet, Mid-Continent Airport, PO Box 7707, Wichita, Kansas 67277. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on October 26, 1995.

Issued in Renton, Washington, on October 2, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–24902 Filed 10–10–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–169–AD; Amendment 39–9390; AD 95–21–05]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This action requires an inspection to detect damage of the wire bundles in the left side of the flight compartment in the vicinity of the stowage box for the captain's oxygen mask, and repair, if necessary; a continuity check on repaired wires; installation of sleeving over the wire bundles; and rerouting of the wire

bundles. This amendment is prompted by reports of chafed wiring and minimal clearance between the oxygen connector and the adjacent wire bundles in the vicinity of the stowage box for the captain's oxygen mask. The actions specified in this AD are intended to prevent such chafing and inadequate clearance, which could result in electrical arcing and consequent oxygen leakage in the vicinity of the stowage box; these conditions, if not corrected, could result in a fire in the flight compartment.

DATES: Effective October 26, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 26, 1995.

Comments for inclusion in the Rules Docket must be received on or before December 11, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–169–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Susan Letcher, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2670; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that a ''MAP RANGE DISAGREE'' message occurred on the left electronic horizontal situation indicator (EHSI) of a Boeing Model 767 series airplane. Investigation revealed that a wire in the vicinity of the stowage box for the captain's oxygen mask was chafed. Other wires were exposed and were in contact with the oxygen line fitting. This condition could result in a small hole in the oxygen line fitting, which may allow oxygen leakage. The FAA also received a report indicating that an operator found evidence of wire insulation wear in the area where the oxygen line fitting touched the wire bundle on one airplane. This operator also reported that three other airplanes had minimal clearance between the oxygen connector and the adjacent wire bundles. Chafing of the wires on oxygen system components in the vicinity of the stowage box for the captain's oxygen mask, if not corrected, could result in electrical arcing and leakage of oxygen; these conditions could result in a fire in the flight compartment.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–35A0028, dated September 7, 1995, which describes procedures for a one-time inspection to detect damage of the wire bundles in the left side of the flight compartment in the vicinity of the stowage box for the captain's oxygen mask and repair, if necessary; a continuity check on repaired wires; installation of sleeving over the wire bundles; and rerouting of the wire bundles. Accomplishment of these procedures will prevent chafing of these wires, which could result in electrical arcing, and will also ensure that adequate spacing separates the oxygen equipment and adjacent wire bundles.

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 767 series airplanes of the same type design, this AD is being issued to prevent wire chafing on oxygen system components and consequent oxygen leakage in the vicinity of the stowage box for the captain's oxygen mask, which could result in a fire in the flight compartment. This AD requires a one-time inspection to detect damage of the wire bundles in the left side of the flight compartment in the vicinity of the stowage box for the captain's oxygen mask, and repair, if necessary; a continuity check on repaired wires; installation of sleeving over the wire bundles; and rerouting of the wire bundles. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–169–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the

Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–21–05 Boeing: Amendment 39–9390. Docket 95–NM–169–AD.

Applicability: Model 767 series airplanes; line positions 2 through 589 inclusive except VA801 through VA810 inclusive, VN684 through VN691 inclusive, and VW701; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent wire chafing and subsequent electrical arcing in the vicinity of the stowage box for the captain's oxygen mask, which could result in a fire in the flight compartment, accomplish the following:

(a) Within 45 days after the effective date of this AD, inspect to detect damage of the wire bundles in the left side of the flight compartment in the vicinity of the stowage box for the captain's oxygen mask, in accordance with Boeing Alert Service Bulletin 767–35A0028, dated September 7, 1995.

(1) If no damage is detected, prior to further flight, install protective sleeving on the wiring, and reroute the wire bundles, in accordance with the alert service bulletin.

(2) If any damage is detected, prior to further flight, accomplish the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Repair the wiring and perform a continuity check on each repaired wire, in accordance with the alert service bulletin. And

(ii) Install protective sleeving on the wiring and reroute the wire bundles, in accordance with the alert service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin 767–35A0028, dated September 7, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 26, 1995.

Issued in Renton, Washington, on October 2, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–24904 Filed 10–10–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 94–ASO–20]

Establishment and Alteration of VOR Federal Airways; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies several existing airways and establishes a new Federal airway, V–601, in the Miami, FL, area. This action is necessary because of the decommissioning of the Miami, FL, Very High Frequency Omnidirectional Range and Tactical Air Navigation (VORTAC) and the commissioning of the Dolphin, FL, VORTAC.

EFFECTIVE DATE: 0901 UTC, November 9, 1995.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

History

On May 3, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a Federal airway and to modify several existing airways (60 FR 21776). On September 25, 1995, the FAA published a supplemental notice of proposed rulemaking (SNPRM) to further modify the descriptions for V–7, V–35, V–157, and V–601, as proposed in the original notice (60 FR 49354). Interested parties were invited to participate in this rulemaking process by submitting written comments on the proposal to the FAA.

One comment was received from the Dade County Aviation Department in response to a previous rulemaking action which was given consideration in this rulemaking action. The Dade County Aviation Department suggested that V–3 would have to be realigned again, once the new Dolphin Very High Frequency Omnidirectional Range (VOR) is commissioned because it may affect arrivals and departures at the Homestead Air Reserve Base (HST). The department stated that a conflict may be created between aircraft operating on that airway and the rapidly ascending jet fighters operating from HST. The department recommended that V–3 be shifted farther east, connecting the Virginia Keys VOR and the NMATE Intersection. It is the department's opinion that aligning the airway with Virginia Keys VOR would place the airway well to the east of HST.

In response, V–3 will not be located over HST when the airway is realigned to the Dolphin VOR. V–3 will be in a position approximately 7.5 miles east of the Homestead General Aviation Airport and 2 miles west of the reserve base, therefore, this airway will not impede operations at either location.

Except for editorial changes and corrections to the airspace descriptions for V–7, V–35, and V–157, as proposed

in the SNPRM, this amendment is the same as proposed in the notice. The airspace description for V–601 was modified, as proposed in the SNPRM, to establish a preferable route for pilots transitioning over water to Key West, FL. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes a new Federal airway and modifies the designation of existing Federal airways in Miami, FL. This action is necessary because of the decommissioning of the Miami, FL, VORTAC and the commissioning of the new Dolphin, FL, VORTAC. I find that good cause exists, pursuant to 5 U.S.C. 553(d), for making this amendment effective in less than 30 days in order to promote the safe and efficient handling of air traffic in the area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Because these amendments involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–3 (Revised)

From Key West, FL; INT Key West 083° and Dolphin, FL, 191° radials; Dolphin; Ft. Lauderdale, FL; Palm Beach, FL; Vero Beach, FL; Melbourne, FL; Ormond Beach, FL; Brunswick, GA; Savannah, GA; Vance, SC; Florence, SC; Sandhills, NC; Raleigh-Durham, NC; INT Raleigh-Durham 016° and Flat Rock, VA, 214° radials; Flat Rock; Gordonsville, VA; INT Gordonsville 331° and Martinsburg, WV, 216° radials; Martinsburg; Westminster, MD; INT Westminster 048° and Modena, PA, 258° radials; Modena; Solberg, NJ; INT Solberg 044° and Carmel, NY, 243° radials; Carmel; Hartford, CT; INT Hartford 084° and Boston, MA, 224° radials; Boston; INT Boston 014° and Pease, NH, 185° radials; Pease; INT Pease 004° and Augusta, ME, 233° radials; Augusta; Bangor, ME; INT Bangor 039° and Houlton, ME, 203° radials; Houlton; Presque Isle, ME; to PQ, Canada. The airspace within R–2916, R–2934, R–2935 and within Canada is excluded.

* * * * *

V–7 (Revised)

From Dolphin, FL; INT Dolphin 299° and Lee County, FL, 120° radials; Lee County; Lakeland, FL; Cross City, FL; Tallahassee, FL; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; Vulcan, AL; Muscle Shoals, AL; Graham, TN; Central City, KY; Pocket City, IN; INT Pocket City 016° and Terre Haute, IN, 191° radials; Terre Haute; Boiler, IN; Chicago Heights, IL; INT Chicago Heights 358° and Falls, WI, 170° radials; Falls; Green Bay, WI; Menominee, MI; Marquette, MI. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

* * * * *

V–35 (Revised)

From Dolphin, FL; INT Dolphin 266° and Cypress, FL, 110° radials; INT Cypress 110° and Lee County, FL, 138° radials; Lee County; INT Lee County 326° and St. Petersburg, FL, 152° radials; St. Petersburg; INT St. Petersburg 350° and Cross City, FL, 168° radials; Cross City, FL; Greenville, FL; Pecan, GA; Macon, GA; INT Macon 005° and Athens, GA, 195° radials; Athens; Electric City, SC; Sugarloaf Mountain, NC; Holston Mountain, TN; Glade Spring, VA; Charleston, WV; INT Charleston 051° and Elkins, WV, 264° radials; Clarksburg, WV; Morgantown, WV; Indian Head, PA; Johnstown, PA; Tyrone, PA; Philipsburg, PA; Stonyfork, PA; Elmira, NY; Syracuse, NY. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

* * * * *

V–97 (Revised)

From Dolphin, FL; La Belle, FL; St. Petersburg, FL; Tallahassee, FL; Pecan, GA; Atlanta, GA; INT Atlanta 001° and Volunteer, TN, 197° radials; Volunteer; London, KY; Lexington, KY; Cincinnati, OH; Shelbyville, IN, INT Shelbyville 313° and Boiler, IN, 136° radials; Boiler; Chicago Heights, IL; to INT Chicago Heights 358° and Chicago O'Hare, IL, 127° radials. From INT Northbrook, IL, 290° and Janesville, WI, 112° radials; Janesville; Lone Rock, WI; Nodine, MN; to Gopher, MN. The airspace below 2,000 feet MSL outside the United States is excluded.

* * * * *

V–157 (Revised)

From Key West, FL; INT Key West 038° and Dolphin, FL, 244° radials; Dolphin; INT Dolphin 331° and La Belle, FL, 113°T radials; La Belle; Lakeland, FL; Ocala, FL; Gainesville, FL; Taylor, FL; Waycross, GA; Alma, GA; Allendale, SC; Vance, SC; Florence, SC; Fayetteville, NC; Kinston, NC; Tar River, NC; Lawrenceville, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Woodstown, NJ; Robbinsville, NJ; INT Robbinsville 044° and LaGuardia, NY, 213° radials; LaGuardia; INT LaGuardia 032° and Deer Park, NY, 326° radials; INT Deer Park 326° and Kingston, NY, 191° radials; Kingston, NY; to Albany, NY. The airspace within R–6602A is excluded. The airspace within R–4005, R–4006, and R–4007A are excluded.

* * * * *

V–267 (Revised)

From Dolphin, FL; INT Dolphin 354° and Pahokee, FL, 157° radials; Pahokee; Orlando, FL; Craig, FL; Dublin, GA; Athens, GA; INT Athens 340° and Harris, GA, 148° radials; Harris; Volunteer, TN.

* * * * *

V–437 (Revised)

From Dolphin, FL; INT Dolphin 354° and Pahokee, FL, 157° radials; Pahokee; Melbourne, FL; INT Melbourne 322° and Ormond Beach, FL, 211° radials; Ormond Beach; Savannah, GA; Charleston, SC; Florence, SC. The airspace within R–2935 is excluded.

* * * * *

V–511 (Revised)

From Lakeland, FL; INT Lakeland 140° and Dolphin, FL, 331° radials; Dolphin.

* * * * *

V–521 (Revised)

From Dolphin, FL; INT Dolphin 318° and Lee County, FL, 099° radials; Lee County;

INT Lee County 014° and Lakeland, FL, 154° radials; Lakeland; Cross City, FL; INT Cross City 287° and Marianna, FL, 141° radials; Marianna; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; INT Montgomery 357° and Vulcan, AL, 139° radials; Vulcan.

* * * * *

V–599 (Revised)

From Lee County, FL; INT Lee County 083° and Dolphin, FL, 331° radials; Dolphin.

* * * * *

V–601 (New)

From Pahokee, FL; INT Pahokee 211° and Key West, FL, 020° radials; Key West.

* * * * *

Issued in Washington, DC, on October 4, 1995.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–25189 Filed 10–10–95; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 52 and 602

[TD 8622]

RIN 1545–AQ23

Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as medical sterilants or propellants in metered-dose inhalers, and floor stocks taxes on ODCs. The regulations reflect changes to the law made by the Omnibus Budget Reconciliation Act of 1989, the Omnibus Budget Reconciliation Act of 1990, and the Energy Policy Act of 1992 and affect persons who manufacture, import, export, sell, or use ODCs.

EFFECTIVE DATE: These regulations are effective January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1361.

Estimated average annual burden per recordkeeper: 0.2 hour.

Estimated average annual burden per respondent: 0.1 hour.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

This document contains amendments to the Environmental Tax Regulations (26 CFR part 52) relating to exports of ODCs under sections 4681 and 4682. Sections 4681 and 4682 were enacted as part of the Omnibus Budget Reconciliation Act of 1989, and amended by the Omnibus Budget Reconciliation Act of 1990 and the Energy Policy Act of 1992 (Energy Act).

Section 4682(d)(3) provides a limited exemption from tax for ODCs that are exported. Although final regulations (TD 8370) under sections 4681 and 4682 were published in the **Federal Register** on November 4, 1991 (56 FR 56303), the section relating to exports of ODCs was reserved.

The Energy Act increased and made uniform the base tax amounts for all ODCs and extended the floor stocks tax to calendar years after 1994. The Energy Act also provides a reduced rate of tax for (1) ODCs used as propellants in metered-dose inhalers (for years after 1992), (2) ODCs used as medical sterilants (for 1993 only), and (3) methyl chloroform (for 1993 only).

On January 15, 1993, proposed regulations (PS–89–91) relating to exports of ODCs and the Energy Act changes were published in the **Federal Register** (58 FR 4625). Written comments responding to the notice of proposed rulemaking were received. A public hearing was not held. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision. The comments and revisions are discussed below.

Explanation of Revisions and Summary of Comments

Mixtures

Under the 1991 final regulations, the creation of a mixture is treated as a taxable use of the ODCs contained in the mixture unless a person elects other treatment (the mixture election). The proposed regulations provided, however, that the creation of a mixture for export is not a taxable use of the ODCs contained in the mixture. Commenters supported the proposed rule and suggested that it also apply to mixtures created for feedstock use. These final regulations adopt the proposed rule and extend its application to include the creation of a mixture for feedstock use. However, these regulations do not adopt the suggestion that the rule be further extended to apply to sales of ODCs for the creation of a mixture.

Metered-Dose Inhalers

Several commenters pointed out that the proposed definition of a metered-dose inhaler, by including the phrase directly to the lungs, excluded two of the eight types of inhalers. They suggested that we modify the definition to remove this phrase. The final regulations adopt this suggestion.

Exemption Amount

One commenter pointed out that the provisions of the proposed regulations describing exemption amounts should refer to exceptions from tax under section 4682(d) rather than under section 4682(d)(3). The final regulations adopt the suggested reference.

One commenter suggested that we add an example illustrating the calculation of the exemption amount when a person is both a manufacturer and an importer. The final regulations provide such an example.

Registration

One commenter suggested that we specify how to register with the IRS. The final regulations explain the registration procedure.

Credit or Refund for Exports

One commenter thought that the wording of the proposed rule relating to a claim for credit or refund of tax paid on ODCs that are exported was ambiguous as to which year's exemption limitation applies to such a claim. The final regulations clarify that the applicable limitation is the limitation for the calendar year during which the ODCs were sold.

The same commenter raised questions about the documentation to be submitted with a claim and suggested that the regulations provide more information. Documentation needs to be submitted with a claim only if specifically required. Neither the proposed nor the final regulations

require documentation to be submitted with the claim.

Another commenter suggested that for periods before 1993 we accept export documentation similar to that required by the Environmental Protection Agency. These final regulations provide that such documentation is acceptable.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 52

Chemicals, Excise taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 52 and 602 are amended as follows:

PART 52—ENVIRONMENTAL TAXES

Paragraph 1. The authority citation for part 52 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 52.4682–5 also issued under 26 U.S.C. 4662(e)(4).

§ 52.4681–0 [Removed]

Par. 2. Section 52.4681–0 is removed.

Par. 3. Section 52.4681–1 is amended by:

1. Revising paragraph (a)(3)(ii).
2. Revising paragraph (c)(7)(iii)(A).
3. Revising paragraph (d)(3).

The revisions read as follows:

§ 52.4681–1 Taxes imposed with respect to ozone-depletingchemicals.

(a) * * *

(3) * * *

(ii) Dates on which tax imposed. The floor stocks tax is imposed on January 1 of each calendar year after 1989.

* * * * *

(c) * * *

(7) * * *

(iii) * * *

(A) Section 52.4682–1(b)(2)(iii) (relating to mixture elections), § 52.4682–1(b)(2)(iv) (relating to mixtures for export), and § 52.4682–1(b)(2)(v) (relating to mixtures for use as a feedstock);

* * * * *

(d) * * *

(3) Post-1989 ODCs held for sale or for use in further manufacture by any person other than the manufacturer or importer thereof on January 1, 1990, and post-1989 and post-1990 ODCs that are so held on January 1 of each calendar year after 1990.

Par. 4. Section 52.4682–1 is amended by:

1. Revising paragraph (a).
2. Revising the introductory text of paragraph (b)(2)(ii).
3. Adding paragraphs (b)(2)(iv) and (b)(2)(v).
4. Revising paragraphs (f) and (g).
5. Adding paragraph (h).
6. Adding and reserving paragraph (i).
7. Adding paragraph (j).
8. Adding and reserving paragraph (k).

The revisions and additions read as follows:

§ 52.4682–1 Ozone-depleting chemicals.

(a) *Overview.* This section provides rules relating to the tax imposed on ozone-depleting chemicals (ODCs) under section 4681, including rules for identifying taxable ODCs and determining when the tax is imposed, and rules prescribing special treatment for certain ODCs. See § 52.4681–1(a)(1) and (c) for general rules and definitions relating to the tax on ODCs.

(b) * * *

(2) * * *

(ii) *Mixtures.* Except as provided in paragraphs (b)(2)(iii), (iv), and (v) of this section, the creation of a mixture containing two or more ingredients is treated as a taxable use of the ODCs contained in the mixture. For this purpose, a mixture cannot be represented by a chemical formula, and an ODC is contained in a mixture only if the chemical identity of the ODC is not changed. Thus, except as provided in paragraphs (b)(2)(iii), (iv), and (v) of this section—

* * * * *

(iv) *Special rule for exports.* The creation of a mixture for export is not a taxable use of the ODCs contained in the mixture. If a manufacturer or importer sells a mixture for export, § 52.4682–5 applies to the ODCs contained in the mixture. See § 52.4682–5(e) for rules relating to liability of a purchaser for tax if the mixture is not exported.

(v) *Special rule for use as a feedstock.* The creation of a mixture for use as a feedstock (within the meaning of paragraph (c) of this section) is not a taxable use of the ODCs contained in the mixture.

* * * * *

(f) *Methyl chloroform; reduced rate of tax in 1993.* The amount of tax imposed on methyl chloroform is determined under section 4682(g)(5) if the manufacturer or importer of the methyl chloroform sells or uses it during 1993.

(g) *ODCs used as medical sterilants*—(1) *Phase-in of tax.* The amount of tax imposed on an ODC is determined under section 4682(g)(4) if the manufacturer or importer of the ODC—

(i) Uses the ODC during 1993 as a medical sterilant; or

(ii) Sells the ODC in a qualifying sale (within the meaning of paragraph (g)(4) of this section) during 1993.

(2) *Excess payments*—(i) *In general.* Under section 4682(g)(4)(B), a credit against income tax (without interest) or a refund of tax (without interest) is allowed to a person if—

(A) The person uses an ODC during 1993 as a medical sterilant; and

(B) The amount of any tax paid with respect to the ODC under section 4681 or 4682 exceeds the amount that would have been determined under section 4682(g)(4).

(ii) *Amount of credit or refund.* The amount of credit or refund of tax is equal to the excess of—

(A) The tax that was paid with respect to the ODCs under sections 4681 and 4682; over

(B) The tax that would have been imposed under section 4682(g)(4).

(iii) *Procedural rules.* (A) The amount determined under section 4682(g)(4)(B) and paragraph (g)(2)(ii) of this section is treated as a credit described in section 34(a) (relating to credits for gasoline and special fuels) unless a claim for refund has been filed.

(B) See section 6402 and the regulations under that section for procedural rules relating to claiming a credit or refund of tax.

(3) *Definition of use as a medical sterilant.* An ODC is used as a medical

sterilant if it is used in the manufacture of sterilant gas.

(4) *Qualifying sale.* A sale of an ODC for use as a medical sterilant is a qualifying sale if the requirements of § 52.4682–2(b)(3) are satisfied with respect to the sale.

(h) *ODCs used as propellants in metered-dose inhalers*—(1) *Reduced rate of tax.* The amount of tax imposed on an ODC is determined under section 4682(g)(4) if the manufacturer or importer of the ODC—

(i) Uses the ODC after 1992 as a propellant in a metered-dose inhaler; or

(ii) Sells the ODC in a qualifying sale (within the meaning of paragraph (h)(4) of this section) after 1992.

(2) *Excess payments*—(i) *In general.* Under section 4682(g)(4)(B), a credit against income tax (without interest) or a refund of tax (without interest) is allowed to a person if—

(A) The person uses an ODC after 1992 as a propellant in a metered-dose inhaler; and

(B) The amount of any tax paid with respect to the ODC under section 4681 or 4682 exceeds the amount that would have been determined under section 4682(g)(4).

(ii) *Amount of credit or refund.* The amount of credit or refund of tax is equal to the excess of—

(A) The tax that was paid with respect to the ODCs under sections 4681 and 4682; over

(B) The tax that would have been imposed under section 4682(g)(4).

(iii) *Procedural rules*—(A) The amount determined under section 4682(g)(4)(B) and paragraph (h)(2)(ii) of this section is treated as a credit described in section 34(a) (relating to credits for gasoline and special fuels) unless a claim for refund has been filed.

(B) See section 6402 and the regulations under that section for procedural rules relating to claiming a credit or refund of tax.

(3) *Definition of metered-dose inhaler.* A metered-dose inhaler is an aerosol device that delivers a precisely-measured dose of a therapeutic drug.

(4) *Qualifying sale.* A sale of an ODC for use as a propellant for a metered-dose inhaler is a qualifying sale if the requirements of § 52.4682–2(b)(4) are satisfied with respect to the sale.

(i) [Reserved]

(j) *Exports; cross-reference.* For the treatment of exports of ODCs, see § 52.4682–5.

(k) *Recycling.* [Reserved]

Par. 5. Section 52.4682–2 is amended by:

1. Adding paragraphs (a)(1)(iii) and (a)(1)(iv).

2. Amending the second sentence of paragraph (a)(2) by:

a. Removing the language ''submission of a document to'' and adding ''registration with'' in its place.

b. Removing the language ''registration certificates'' and adding ''certificates'' in its place.

3. Removing the language ''registration'' from paragraphs (b)(1)(i) and (b)(2)(i).

4. Adding paragraphs (b)(3) and (b)(4).

5. Revising the heading for paragraph (d).

6. Revising paragraph (d)(1)(i).

7. Adding paragraphs (d)(4) and (d)(5).

The additions and revisions read as follows:

§ 52.4682–2 Qualifying sales.

(a) * * *

(1) * * *

(iii) Under section 4682(g)(4) and § 52.4682–1(g) (relating to ODCs used as medical sterilants), ODCs sold in qualifying sales are taxed at a reduced rate in 1993.

(iv) Under section 4682(g)(4) and § 52.4682–1(h) (relating to ODCs used as propellants in metered-dose inhalers), ODCs sold in qualifying sales are taxed at a reduced rate in years after 1992.

* * * * *

(b) * * *

(3) *Use as medical sterilants.* A sale of ODCs is a qualifying sale for purposes of § 52.4682–1(g) if the manufacturer or importer of the ODCs—

(i) Obtains a certificate in substantially the form set forth in paragraph (d)(4) of this section from the purchaser of the ODCs; and

(ii) Relies on the certificate in good faith.

(4) *Use as propellants in metered-dose inhalers.* A sale of ODCs is a qualifying sale for purposes of §§ 52.4682–1(h) and 52.4682–4(b)(2)(vii) if the manufacturer or importer of the ODCs—

(i) Obtains a certificate in substantially the form set forth in paragraph (d)(5) of this section from the purchaser of the ODCs; and

(ii) Relies on the certificate in good faith.

* * * * *

(d) *Certificate*—(1) * * * (i) *Rules relating to all certificates.* This paragraph (d) sets forth certificates that satisfy the requirements of paragraphs (b)(1) through (4) of this section. The certificate shall consist of a statement executed and signed under penalties of perjury by a person with authority to bind the purchaser. A certificate provided under paragraph (d)(2) or (5) of this section may apply to a single purchase or to multiple purchases and need not specify an expiration date. A certificate provided under paragraph (d)(3) or (4) of this section may apply to a single purchase or multiple purchases, and will expire as of December 31, 1993, unless an earlier expiration date is specified in the certificate. A new certificate must be given to the supplier if any information on the current certificate changes. The certificate may be included as part of any business records normally used to document a sale.

* * * * *

(4) *Certificate relating to ODCs used as medical sterilants*—(i) *ODCs that will be resold for use by the second purchaser as medical sterilants.* If the purchaser will resell the ODCs to a second purchaser for use by such second purchaser as medical sterilants, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE RESOLD FOR USE BY THE SECOND PURCHASER AS MEDICAL STERILANTS

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Effective Date _____

Expiration Date _____

(not after 12/31/93)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

_____

(Name of seller)

_____

(Address of seller)

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are purchasing the ozone-depleting chemicals for use as medical sterilants (as defined in § 52.4682–1(g)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC–12	_____

This certificate applies to (check and complete as applicable):

_____ All shipments to Purchaser at the following location(s):

_____

_____

_____

_____ All shipments to Purchaser under the following Purchaser account number(s):

_____

_____

_____

_____ All shipments to Purchaser under the following purchase order(s):

_____

_____

_____

_____ One or more shipments to Purchaser identified as follows:

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than for the purpose set forth in this certificate may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the sales covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Purchaser that the right to provide a certificate has been withdrawn from any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser

Address of Purchaser

Taxpayer Identifying Number of Purchaser

Title of person signing

Printed or typed name of person signing

Signature

(ii) *ODCs that will be used by the purchaser as medical sterilants.* If the purchaser will use the ODCs as medical sterilants, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE USED BY THE PURCHASER AS MEDICAL STERILANTS

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Effective Date

Expiration Date

(not after 12/31/93)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller)

(Address of seller)

will be used by Purchaser as medical sterilants (as defined in § 52.4682–1(g)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC–12	

This certificate applies to (check and complete as applicable):

_____ All shipments to Purchaser at the following location(s):

_____ All shipments to Purchaser under the following Purchaser account number(s):

_____ All shipments to Purchaser under the following purchase order(s):

_____ One or more shipments to Purchaser identified as follows:

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than as medical sterilants may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the use as medical sterilants of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser

Address of Purchaser

Taxpayer Identifying Number of Purchaser

Title of person signing

Printed or typed name of person signing

Signature

(5) *Certificate relating to ODCs used as propellants in metered-dose inhalers*—(i) *ODCs that will be resold for use by the second purchaser as propellants in metered-dose inhalers.* If the purchaser will resell the ODCs to a second purchaser for use by such second purchaser as propellants in metered-dose inhalers, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE RESOLD FOR USE BY THE SECOND PURCHASER AS PROPELLANTS IN METERED-DOSE INHALERS

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Date

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller)

(Address of seller)

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are purchasing the ozone-depleting chemicals for use as propellants in metered-dose inhalers (as defined in § 52.4682–1(h)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC–11	
CFC–12	
CFC–114	

This certificate applies to (check and complete as applicable):

_____ All shipments to Purchaser at the following location(s):

_____ All shipments to Purchaser under the following Purchaser account number(s):

_____ All shipments to Purchaser under the following purchase order(s):

_____ One or more shipments to Purchaser identified as follows:

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than for the purpose set forth in this certificate may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the sales covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government

officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn. In addition, the Internal Revenue Service has not notified Purchaser that the right to provide a certificate has been withdrawn from any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____
Name of Purchaser

_____
Address of Purchaser

_____

_____
Taxpayer Identifying Number of Purchaser

_____
Title of person signing

_____
Printed or typed name of person signing

_____
Signature

(ii) *ODCs that will be used by the purchaser as propellants in metered-dose inhalers.* If the purchaser will use the ODCs as propellants in metered-dose inhalers, the certificate provided by the purchaser must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS THAT WILL BE USED BY THE PURCHASER AS PROPELLANTS IN METERED-DOSE INHALERS

(To support tax-reduced sales under section 4682(g)(4) of the Internal Revenue Code.)

Date _____

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

The following percentage of ozone-depleting chemicals purchased from:

_____
(Name of seller)

_____
(Address of seller)

will be used by Purchaser as propellants in metered-dose inhalers (as defined in § 52.4682–1(h)(3) of the Environmental Tax Regulations).

Product	Percentage
CFC–11	_____
CFC–12	_____
CFC–114	_____

This certificate applies to (check and complete as applicable):

_____ All shipments to Purchaser at the following location(s):

_____

_____

_____

_____ All shipments to Purchaser under the following Purchaser account number(s):

_____

_____

_____ All shipments to Purchaser under the following purchase order(s):

_____

_____

_____

_____ One or more shipments to Purchaser identified as follows:

_____

_____

_____

Purchaser will not claim a credit or refund under section 4682(g)(4) of the Internal Revenue Code for any ozone-depleting chemicals covered by this certificate.

Purchaser understands that any use by Purchaser of the ozone-depleting chemicals to which this certificate applies other than as propellants in metered-dose inhalers may result in the withdrawal by the Internal Revenue Service of Purchaser's right to provide a certificate.

Purchaser will retain the business records needed to document the use as propellants in metered-dose inhalers of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____
Name of Purchaser

_____
Address of Purchaser

_____

_____
Taxpayer Identifying Number of Purchaser

_____
Title of person signing

_____
Printed or typed name of person signing

_____
Signature

Par. 6. Section 52.4682–4 is amended by:

1. Removing the introductory text of paragraph (b)(2).
2. Revising the first sentence of paragraph (b)(2)(i)(B)(*1*).
3. Adding paragraphs (b)(2)(vi) through (b)(2)(viii).
4. Adding a sentence at the end of paragraph (d)(1)(i).
5. Revising paragraph (d)(1)(iv)(A)(*1*).
6. Adding paragraph (d)(4).
7. Revising paragraph (e)(4)(i).
8. Redesignating paragraph (e)(5) as paragraph (e)(6) and adding a new paragraph (e)(5).
9. Revising *Example 5* of newly designated paragraph (e)(6).

The revisions and additions read as follows:

§ 52.4682–4 Floor stocks tax.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) * * * (*1*) *In general.* In the case of the floor stocks tax imposed on January 1 of a calendar year after 1990, the tax is not imposed on an ODC that has been mixed with any other ingredients, but only if it is established that such ingredients contribute to the accomplishment of the purpose for which the mixture will be used. * * *

* * * * *

(vi) *ODCs to be exported*—(A) *In general.* The floor stocks tax is not imposed on any ODC that was sold in a qualifying sale for export (as defined in § 52.4682–5(d)(1)).

(B) *ODCs sold before January 1, 1993.* An ODC that was sold by its manufacturer or importer before January 1, 1993, is treated, for purposes of this paragraph (b)(2)(vi), as an ODC that was sold in a qualifying sale for export for purposes of § 52.4682–5(d)(1) if the ODC will be exported.

(vii) *ODCs used as propellants in metered-dose inhalers; years after 1992*—(A) *In general.* The floor stocks tax is not imposed on January 1 of calendar years after 1992 on any ODC that was sold in a qualifying sale for use as a propellant in a metered-dose inhaler (as defined in § 52.4682–1(h)).

(B) *ODCs sold before January 1, 1993.* An ODC that was sold by its manufacturer or importer before January 1, 1993, is treated, for purposes of this paragraph (b)(2)(vii), as an ODC that was sold in a qualifying sale for purposes of § 52.4682–1(h) if the ODC will be used as a propellant in a metered-dose inhaler (within the meaning of § 52.4682–1(h)).

(viii) *ODCs used as medical sterilants; 1993.* The floor stocks tax is not imposed in 1993 on any ODC held for use as a medical sterilant (as defined in § 52.4682–1(g)).

* * * * *

(d) * * *

(1) * * *

(i) * * * The amount of the floor stocks tax imposed on the ODCs contained in a nonexempt mixture is computed on the basis of the weight of the ODCs in that mixture.

* * * * *

(iv) * * *

(A) * * *

(*1*) The tentative tax amount is determined, except as provided in paragraph (d)(2), (3), or (4) of this section, by reference to the rate of tax prescribed in section 4681(b)(1)(B) and the ozone-depletion factors prescribed in section 4682(b).

* * * * *

(4) *Methyl chloroform; 1993.* In the case of methyl chloroform, the tentative tax amount is determined under section 4682(g)(5) for purposes of computing the floor stocks tax imposed on January 1, 1993.

(e) * * *

(4) * * *

(i) At least 400 pounds of ODCs that are not described in paragraph (d)(2) or (d)(3) of this section and are otherwise subject to tax;

* * * * *

(5) *Calendar years after 1994.* In the case of the floor stocks tax imposed on January 1 of 1995 and each following calendar year, a person is liable for the tax only if, on such date, the person holds—

(i) At least 400 pounds of ODCs that are not described in paragraph (d)(3) or (d)(4) of this section and are otherwise subject to tax;

(ii) At least 50 pounds of ODCs that are described in paragraph (d)(3) of this section and are otherwise subject to tax; or

(iii) At least 1000 pounds of ODCs that are described in paragraph (d)(4) of this section and are otherwise subject to tax.

(6) * * *

Example 5. (a) On January 1, 1994, D holds for sale 300 pounds of CFC–113 (an ODC not described in paragraph (d)(2) or (d)(3) of this section) and 25 pounds of Halon-1301 (an ODC described in paragraph (d)(3) of this section). D is liable for the floor stocks tax imposed on January 1, 1994, because 25 pounds of Halon-1301 exceeds the de minimis amount specified in paragraph (e)(4)(iii) of this section. The 300 pounds of CFC–113 is less than the amount specified in paragraph (e)(4)(i) of this section. Nevertheless, tax is imposed on both the 25 pounds of Halon-1301 and the 300 pounds of CFC–113.

(b) The amount of the floor stocks tax is determined separately for the 300 pounds of CFC–113 and the 25 pounds of Halon-1301 and is equal to the difference between the tentative tax amount and the amount of tax previously imposed on those ODCs. For Halon-1301, for example, the tax is determined as follows. The tentative tax amount is $1,087.50 ($4.35 (the base tax amount in 1994) × 10 (the ozone-depletion factor for Halon-1301) × 25 (the number of pounds held)). The tax previously imposed on the Halon-1301 is $6.28 ($3.35 (the base tax amount in 1993) × 10 (the ozone-depletion factor for Halon-1301) × 0.75 percent (the applicable percentage determined under section 4682(g)(2)(A)) × 25 (the number of pounds held)). Thus, the floor stocks tax imposed on the 25 pounds of Halon-1301 in 1994 is $1,081.22, the difference between $1,087.50 (the tentative tax amount) and $6.28 (the tax previously imposed).

* * * * *

Par. 7. Section 52.4682–5 is added to read as follows:

§ 52.4682–5 Exports.

(a) *Overview.* This section provides rules relating to the tax imposed under section 4681 on ozone-depleting chemicals (ODCs) that are exported. In general, tax is not imposed on ODCs that a manufacturer or importer sells for export, or for resale by the purchaser to a second purchaser for export, if the procedural requirements set forth in paragraph (d) of this section are met. The tax benefit of this exemption is limited, however, to the manufacturer's or importer's exemption amount. Thus, if the tax that would otherwise be imposed under section 4681 on ODCs that a manufacturer or importer sells for export exceeds this exemption amount, a tax equal to the excess is imposed on the ODCs. The exemption amount, which is determined separately for post-1989 ODCs and post–1990 ODCs, is calculated for each calendar year in accordance with the rules of paragraph (c) of this section. This section also provides rules under which a tax imposed under section 4681 on exported ODCs may be credited or refunded, subject to the same limit on tax benefits, if the procedural requirements set forth in paragraph (f) of this section are met. See § 52.4681–1(c) for definitions relating to the tax on ODCs.

(b) *Exemption or partial exemption from tax*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, no tax is imposed on an ODC if the manufacturer or importer of the ODC sells the ODC in a qualifying sale for export (within the meaning of paragraph (d)(1) of this section).

(2) *Tax imposed if exemption amount exceeded*—(i) *Post–1989 ODCs.* The tax imposed on post–1989 ODCs that a manufacturer or importer sells in qualifying sales for export during a calendar year is equal to the excess (if any) of—

(A) The tax that would be imposed on the ODCs but for section 4682(d)(3) and this section; over

(B) The post–1989 ODC exemption amount for the calendar year determined under paragraph (c)(1) of this section.

(ii) *Post–1990 ODCs.* The tax imposed on post–1990 ODCs that a manufacturer or importer sells in qualifying sales for export during a calendar year is equal to the excess (if any) of—

(A) The tax that would be imposed on the ODCs but for section 4682(d)(3) and this section; over

(B) The post–1990 ODC exemption amount for the calendar year determined under paragraph (c)(2) of this section.

(iii) *Allocation of tax*—(A) *Post–1989 ODCs.* The tax (if any) determined under paragraph (b)(2)(i) of this section may be allocated among the post–1989 ODCs on which it is imposed in any manner, provided that the amount allocated to any post–1989 ODC does not exceed the tax that would be imposed on such ODC but for section 4682(d)(3) and this section.

(B) *Post–1990 ODCs.* The tax (if any) determined under paragraph (b)(2)(ii) of this section may be allocated among the post–1990 ODCs on which it is imposed in any manner, provided that the amount allocated to any post–1990 ODC does not exceed the tax that would be imposed on such ODC but for section 4682(d)(3) and this section.

(c) *Exemption amount*—(1) *Post–1989 ODC exemption amount.* A manufacturer's or importer's post–1989 ODC exemption amount for a calendar year is the sum of the following amounts:

(i) The 1986 export percentage of the aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on the maximum quantity, determined without regard to additional production allowances, of post–1989 ODCs that the person is permitted to manufacture during the calendar year under rules prescribed by the Environmental Protection Agency (40 CFR part 82).

(ii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post–1989 ODCs that the person manufactures during the calendar year under any additional production allowance granted by the Environmental Protection Agency.

(iii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post–1989 ODCs imported by the person during the calendar year.

(2) *Post–1990 ODC exemption amount.* A manufacturer's or importer's post–1990 ODC exemption amount for a calendar year is the sum of the following amounts:

(i) The 1989 export percentage of the aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on the maximum quantity, determined without regard to additional production allowances, of post–1990 ODCs the person is permitted to manufacture during the calendar year under rules prescribed by the Environmental Protection Agency.

(ii) The aggregate tax that would (but for section 4682(d), section 4682(g), and

this section) be imposed under section 4681 on post–1990 ODCs that the person manufactures during the calendar year under any additional production allowance granted by the Environmental Protection Agency.

(iii) The aggregate tax that would (but for section 4682(d), section 4682(g), and this section) be imposed under section 4681 on post–1990 ODCs imported by the person during the calendar year.

(3) *Definitions*—(i) *1986 export percentage.* See section 4682(d)(3)(B)(ii) for the meaning of the term *1986 export percentage.*

(ii) *1989 export percentage.* See section 4682(d)(3)(C) for the meaning of the term *1989 export percentage.*

(d) *Procedural requirements relating to tax-free sales for export*—(1) *Qualifying sales*—(i) *In general.* A sale of ODCs is a qualifying sale for export if—

(A) The seller is the manufacturer or importer of the ODCs and the purchaser is a purchaser for export or for resale to a second purchaser for export;

(B) At the time of the sale, the seller and the purchaser are registered with the Internal Revenue Service; and

(C) At the time of the sale, the seller—

(*1*) Has an unexpired certificate in substantially the form set forth in paragraph (d)(3)(ii) of this section from the purchaser; and

(*2*) Relies on the certificate in good faith.

(ii) *Qualifying resale.* A sale of ODCs is a qualifying resale for export if—

(A) The seller acquired the ODCs in a qualifying sale for export and the purchaser is a second purchaser for export;

(B) At the time of the sale, the seller and the purchaser are registered with the Internal Revenue Service; and

(C) At the time of the sale, the seller—

(*1*) Has an unexpired certificate in substantially the form set forth in paragraph (d)(3)(ii)(A) of this section from the purchaser of the ODCs; and

(*2*) Relies on the certificate in good faith.

(iii) *Special rule relating to sales made before July 1, 1993.* If a sale for export made before July 1, 1993, satisfies all the requirements of paragraph (d)(1)(i) or (ii) of this section other than those relating to registration, the sale will be treated as a qualifying sale (or resale) for export. Thus, a sale made before July 1, 1993, may be a qualifying sale (or resale) even if the parties to the sale are not registered and the required certificate does not contain statements regarding registration.

(iv) *Registration.* Application for registration is made on Form 637 (or any other form designated for the same use by the Commissioner) according to the instructions applicable to the form. A person is registered only if the district director has issued that person a letter of registration and it has not been revoked or suspended. The effective date of the registration must be no earlier than the date on which the district director signs the letter of registration. Each business unit that has, or is required to have, a separate employer identification number is treated as a separate person.

(2) *Good faith reliance.* The requirements of paragraph (d)(1) of this section are not satisfied with respect to a sale of ODCs and the sale is not a qualifying sale (or resale) if, at the time of the sale—

(i) The seller has reason to believe that the ODCs are not purchased for export; or

(ii) The Internal Revenue Service has notified the seller that the purchaser's registration has been revoked or suspended.

(3) *Certificate*—(i) *In general.* The certificate required under paragraph (d)(1) of this section consists of a statement executed and signed under penalties of perjury by a person with authority to bind the purchaser, in substantially the same form as model certificates provided in paragraph (d)(3)(ii) of this section, and containing all information necessary to complete such model certificate. A new certificate must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earliest of the following dates—

(A) The date one year after the effective date of the certificate;

(B) The date the purchaser provides a new certificate to the seller; or

(C) The date the seller is notified by the Internal Revenue Service or the purchaser that the purchaser's registration has been revoked or suspended.

(ii) *Model certificates*—(A) *ODCs sold for export by the purchaser.* If the purchaser will export the ODCs, the certificate must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS FOR EXPORT BY THE PURCHASER

(To support tax-free sales under section 4682(d)(3) of the Internal Revenue Code.)

Effective Date _____

Expiration Date _____

(not more than one year after effective date)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

Purchaser is registered with the Internal Revenue Service as a purchaser of ozone-depleting chemicals for export under registration number _____. Purchaser's registration has not been suspended or revoked by the Internal Revenue Service.

The following percentage of ozone-depleting chemicals purchased from:

_____

(Name of seller)

_____

(Address of seller)

_____

(Taxpayer identifying number of seller)

are purchased for export by Purchaser.

Product	Percentage
CFC–11	_____
CFC–12	_____
CFC–113	_____
CFC–114	_____
CFC–115	_____
Halon-1211	_____
Halon-1301	_____
Halon-2402	_____
Carbon tetrachloride	_____
Methyl chloroform	_____
Other (specify) _____	_____

This certificate applies to (check and complete as applicable):

_____ All shipments to Purchaser at the following location(s):

_____

_____

_____

_____ All shipments to Purchaser under the following Purchaser account number(s):

_____

_____

_____

_____ All shipments to Purchaser under the following purchase order(s):

_____

_____

_____

_____ One or more shipments to Purchaser identified as follows:

_____

_____

Purchaser understands that Purchaser will be liable for tax imposed under section 4681 if Purchaser does not export the ODCs to which this certificate applies.

Purchaser understands that any use of the ODCs to which this certificate applies other than for export may result in the revocation of Purchaser's registration.

Purchaser will retain the business records needed to document the export of the ozone-depleting chemicals to which this certificate applies and will make such records available for inspection by Government officers.

Purchaser has not been notified by the Internal Revenue Service that its registration has been revoked or suspended.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser

1 Address of Purchaser

Taxpayer Identifying Number of Purchaser

Title of person signing

Printed or typed name of person signing

Signature

(B) *ODCs sold by the purchaser for resale for export by the second purchaser.* If the purchaser will resell the ODCs to a second purchaser for export by the second purchaser, the certificate must be in substantially the following form:

CERTIFICATE OF PURCHASER OF CHEMICALS FOR RESALE FOR EXPORT BY THE SECOND PURCHASER

(To support tax-free sales under section 4682(d)(3) of the Internal Revenue Code.)

Effective Date

Expiration Date

(not more than one year after effective date)

The undersigned purchaser (Purchaser) certifies the following under penalties of perjury:

Purchaser is registered with the Internal Revenue Service as a purchaser of ozone-depleting chemicals for export under registration number _____. Purchaser's registration has not been suspended or revoked by the Internal Revenue Service.

The following percentage of ozone-depleting chemicals purchased from:

(Name of seller)

(Address of seller)

(Taxpayer identifying number of seller)

will be resold by Purchaser to persons (Second Purchasers) that certify to Purchaser that they are (1) registered with the Internal Revenue Service as purchasers of ozone-depleting chemicals for export and (2) purchasing the ozone-depleting chemicals for export.

Product	Percentage
CFC–11	
CFC–12	
CFC–113	
CFC–114	
CFC–115	
Halon-1211	
Halon-1301	
Halon-2402	
Carbon tetrachloride	
Methyl chloroform	
Other (specify) _____	

This certificate applies to (check and complete as applicable):

_____ All shipments to Purchaser at the following location(s):

_____ All shipments to Purchaser under the following Purchaser account number(s):

_____ All shipments to Purchaser under the following purchase order(s):

_____ One or more shipments to Purchaser identified as follows:

Purchaser understands that Purchaser will be liable for tax imposed under section 4681 if Purchaser does not resell the ODCs to which this certificate applies to a Second Purchaser for export or export those ODCs.

Purchaser understands that any use of the ODCs to which this certificate applies other than for resale to Second Purchasers for export may result in the revocation of Purchaser's registration.

Purchaser will retain the business records needed to document the sales to Second Purchasers for export covered by this certificate and will make such records available for inspection by Government officers. Purchaser also will retain and make available for inspection by Government officers the certificates of its Second Purchasers.

Purchaser has not been notified by the Internal Revenue Service that its registration has been revoked or suspended. In addition, the Internal Revenue Service has not notified Purchaser of the revocation or suspension of the registration of any Second Purchaser who will purchase ozone-depleting chemicals to which this certificate applies.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Name of Purchaser

Address of Purchaser

Taxpayer Identifying Number of Purchaser

Title of person signing

Printed or typed name of person signing

Signature

(4) *Documentation of export*—(i) *After December 31, 1992.* After December 31, 1992, to document the exportation of any ODCs, a person must have the evidence required by the Environmental Protection Agency as proof that the ODCs were exported.

(ii) *Before January 1, 1993.* Before January 1, 1993, to document the exportation of any ODCs, a person must have evidence substantially similar to that required by the Environmental Protection Agency as proof that the ODCs were exported.

(e) *Purchaser liable for tax*—(1) *Purchaser in qualifying sale.* The purchaser of ODCs in a qualifying sale for export is treated as the manufacturer of the ODC and is liable for any tax imposed under section 4681 (determined without regard to exemptions for qualifying sales under this section or § 52.4682–1) when it sells or uses the ODCs if that purchaser does not-

(i) Export the ODCs and document the exportation of the ODCs in accordance with paragraph (d)(4) of this section; or

(ii) Sell the ODCs in a qualifying resale for export.

(2) *Purchaser in qualifying resale.* The purchaser of ODCs in a qualifying resale for export is treated as the manufacturer of the ODC and is liable for any tax imposed under section 4681 (determined without regard to exemptions for qualifying sales under this section or § 52.4682–1) when it sells or uses the ODCs if that purchaser does not export the ODCs and document the exportation of the ODCs in accordance with paragraph (d)(4) of this section.

(f) *Credit or refund*—(1) *In general.* Except as provided in paragraph (f)(2) of this section, a manufacturer or importer that meets the conditions of paragraph (f)(3) of this section is allowed a credit or refund (without interest) of the tax it paid to the government under section 4681 on ODCs that are exported. Persons other than manufacturers and importers of ODCs cannot file claims for credit or refund of tax imposed under section 4681 on ODCs that are exported.

(2) *Limitation.* The amount of credits or refunds of tax under this paragraph (f) is limited—

(i) In the case of tax paid on post-1989 ODCs sold during a calendar year, to the amount (if any) by which the post-1989 exemption amount for the year exceeds the tax benefit provided to such post-1989 ODCs under paragraph (b) of this section; and

(ii) In the case of tax paid on post-1990 ODCs sold during a calendar year, to the amount (if any) by which the post-1990 exemption amount for the year exceeds the tax benefit provided to such post-1990 ODCs under paragraph (b) of this section.

(3) *Conditions to allowance of credit or refund.* The conditions of this paragraph (f)(3) are met if the manufacturer or importer—

(i) Documents the exportation of the ODCs in accordance with paragraph (d)(4) of this section; and

(ii) Establishes that it has—

(A) Repaid or agreed to repay the amount of the tax to the person that exported the ODC; or

(B) Obtained the written consent of the exporter to the allowance of the credit or the making of the refund.

(4) *Procedural rules.* See section 6402 and the regulations under that section for procedural rules relating to filing a claim for credit or refund of tax.

(g) *Examples.* The following examples illustrate the provisions of this section. In each example, the sales are qualifying sales for export (within the meaning of paragraph (d)(1) of this section), all registration, certification, and documentation requirements of this section are met, and the ODCs sold for export are exported:

Example 1. (i) *Facts.* D, a corporation, manufactures CFC–11, a post-1989 ODC, and does not manufacture or import any other ODCs. In 1993, D manufactures 100,000 pounds of CFC–11, the maximum quantity D is allowed to manufacture in 1993 under EPA regulations. D has no additional production allowance from EPA for 1993. In 1993, the tax on CFC–11 is $3.35 per pound. D's 1986 export percentage for post-1989 ODCs is 50%. In 1993, D sells 80,000 pounds of CFC–11 in qualifying sales for export. The remainder of D's production is not exported.

(ii) *Components of limit on tax benefit.* Under paragraph (c)(1) of this section, D's exemption amount for 1993 is equal to the sum of—

(A) D's 1986 export percentage multiplied by the aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682–5) be imposed under section 4681 on the maximum quantity of post-1989 ODCs D is permitted to manufacture during 1993;

(B) The aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682–5) be imposed under section 4681 on post-1989 ODCs that D manufactures during 1993 under an additional production allowance; and

(C) The aggregate tax that would (but for section 4682(d), section 4682(g), and § 52.4682–5) be imposed under section 4681 on post-1989 ODCs imported by D during 1993.

(iii) *Limit on tax benefit.* The amounts described in paragraphs (ii)(B) and (C) of this *Example 1* are equal to zero. Thus, D's 1993 exemption amount is $167,500 (50% of $335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC–11 in 1993)).

(iv) *Application of limit on tax benefit.* Under paragraph (b)(2) of this section, the tax imposed on the CFC–11 D sells for export is equal to the excess of the tax that would have been imposed on those ODCs but for section 4682(d) and § 52.4682–5, over D's 1993 exemption amount. But for § 52.4682–5, $268,000 ($3.35 x 80,000) of tax would have been imposed on the CFC–11 sold for export. Thus, $100,500 ($268,000 − $167,500) of tax is imposed on the CFC–11 sold for export.

Example 2. (i) *Facts.* E, a corporation, manufactures CFC–11, a post-1989 ODC, and does not manufacture or import any other ODCs. In 1993, E manufactures 100,000 pounds of CFC–11, the maximum quantity E is allowed to manufacture in 1993 under EPA regulations. E has no additional production allowance from EPA for 1993. In 1993, the tax on CFC–11 is $3.35 per pound. E's 1986 export percentage for post-1989 ODCs is 50%. In 1993, E sells 45,000 pounds of CFC–11 tax free in qualifying sales for export and pays tax under section 4681 on an additional 35,000 pounds of exported CFC–11. The remainder of E's production is not exported.

(ii) *Limit on tax benefit.* E's 1993 exemption amount is $167,500, (50% of $335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC–11 in 1993)). The credit or refund allowed to E under paragraph (f) of this section is limited under paragraph (f)(2) of this section to the amount by which E's 1993 exemption amount exceeds E's 1993 tax benefit under paragraph (b) of this section.

(iii) *Application of limit on tax benefit.* Because E sold 45,000 pounds of CFC–11 tax free in qualifying sales for export in 1993, E's 1993 tax benefit under paragraph (b) of this section is $150,750 ($3.35 x 45,000). Thus, the credit or refund allowed to E under paragraph (f) of this section is limited to $16,750 ($167,500 − $150,750).

Example 3. (i) *Facts.* F, a corporation, manufactures CFC–11, a post-1989 ODC, and does not manufacture any other ODCs. F also imports CFC–11. In 1993, F manufactures 60,000 pounds of CFC–11 (100,000 pounds is the maximum quantity F is allowed to manufacture in 1993 under EPA regulations) and imports 40,000 pounds. F has no additional production allowance from EPA for 1993. In 1993, the tax on CFC–11 is $3.35 per pound. F's 1986 export percentage for post-1989 ODCs is 50%. In 1993, F sells 45,000 pounds of CFC–11 tax free in qualifying sales for export and pays tax under section 4681 on an additional 35,000 pounds of exported CFC–11. The remainder of F's production is not exported.

(ii) *Limit on tax benefit.* F's 1993 exemption amount is $301,500, ($167,500 (50% of $335,000 (the tax that would otherwise be imposed on 100,000 pounds of CFC–11 in 1993) plus $134,000 (the tax that would otherwise be imposed on the 40,000 pounds imported)). The credit or refund allowed to F under paragraph (f) of this section is limited under paragraph (f)(2) of this section to the amount by which F's 1993 exemption amount exceeds F's 1993 tax benefit under paragraph (b) of this section.

(iii) *Application of limit on tax benefit.* Because F sold 45,000 pounds of CFC–11 tax free in qualifying sales for export in 1993, F's 1993 tax benefit under paragraph (b) of this section is $150,750 ($3.35 x 45,000). Thus, the credit or refund allowed to F under paragraph (f) of this section is limited to $150,750 ($301,500 − $150,750). The limitation does not affect F's credit or refund because the tax F paid on exported ODCs is only $117,250 ($3.35 x 35,000).

(h) *Effective date.* This section is effective January 1, 1993.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 8. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 9. In § 602.101, paragraph (c) is amended by revising the entries for 52.4682–2(b) and 52.4682–2(d) and adding entries in numerical order to the table to read as follows:

§ 602.601 OMB Control numbers.

* * * * *

(c) ***

CFR part or section where identified and described	Current OMB control No.
* * * * *	
52.4682–2(b)	1545–1153
	1545–1361
52.4682–2(d)	1545–1153
	1545–1361
* * * * *	
52.4682–5(d)	1545–1361
52.4682–5(f)	1545–1361
* * * * *	

Approved: August 31, 1995.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Cynthia G. Beerbower,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–24603 Filed 10–10–95; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–004 E, F, G, H, I, and J]

Occupational Exposure to Lead

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Amendments to final rule.

SUMMARY: This document embodies a determination by OSHA that it is economically feasible for the brass and bronze ingot manufacturing industry as a whole to achieve an air lead limit of 75 μg/m³ within six years by means of engineering and work practice controls. It amends Table I of paragraph (e)(1), the compliance Implementation Schedule, of the final rule on occupational exposure to lead, 29 CFR 1910.1025, to reflect that determination. This document also amends that Table based

on the lifting of a judicial stay on March 8, 1990 and July 19, 1991, for other, specific industries. The stay had been in effect with respect to compliance requirements set forth in paragraph (e)(1) of the lead standard. Accordingly, lead industries affected by the lifting of the stay must implement engineering and work practice controls in accordance with paragraph (e)(1) of the lead standard by the date specified for the particular industry in Table I of paragraph (e)(1), as amended.

In addition, this document makes technical changes and corrections to the standard, amending portions of the standard that are unclear, obsolete or inconsistent with current compliance requirements. It also amends certain information in the Appendices to 29 CFR 1910.1025 that may have been misleading.

EFFECTIVE DATE: October 11, 1995. The compliance dates for industries identified herein are set forth in Table I of paragraph (e)(1), below.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Cyr, Acting Director of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, NW, Washington, DC 20010, telephone: (202) 219–8151.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 1978, OSHA promulgated the lead standard (29 CFR 1910.1025), which established a permissible exposure limit (PEL) of 50 μg/m^3 based on an 8-hour time-weighted-average (TWA) (43 FR 52952; and see 43 FR 54354, November 21, 1978). Paragraph (e)(1) of the standard requires that, to the extent feasible, employers achieve the PEL of 50 μg/m^3 solely by means of engineering and work practice controls.

The standard was challenged by both industry and labor, with all cases transferred to the U. S. Court of Appeals for the District of Columbia. In *United Steelworkers of America* v. *Marshall,* 647 F. 2d 1189 (D.C. Cir. 1980), *cert. denied,* 453 U.S. 913 (1981), the Court affirmed most aspects of the regulation covering worker exposure to airborne lead. The Court also upheld OSHA's findings of feasibility for ten industries: primary lead production, secondary lead production, can manufacturing, lead acid battery manufacturing, paints and coatings manufacturing, ink manufacturing, wallpaper manufacturing, electronics, printing, and grey-iron foundries. However, the Court further found that OSHA had failed to present adequate evidence of feasibility for 38 lead industries.

The Court remanded the record to OSHA for reconsideration of the technological and economic feasibility of paragraph (e)(1) and stayed enforcement of paragraph (e)(1) for those industries. Nonetheless, the Court held that the 38 industries were required to meet the PEL by a combination of engineering controls, work practices, and respiratory protection. Accordingly, the entire lead standard was in effect with two exceptions: (1) the requirement for the 38 remand industries that the PEL be achieved by engineering and work practice controls; and (2) the requirement that high efficiency filters be used in respirators, which had been stayed administratively by OSHA in 1979 (44 FR 5445).

In December 1981, OSHA published (46 FR 60758) and filed with the Court its statement of reasons that compliance with paragraph (e)(1) is feasible for all but nine of the remand industries, which, after recategorizing and adding other industries to the list, totaled 45 industries. The nine industries were: brass and bronze ingot manufacturing/production; collection and processing of scrap (including independent battery breaking); lead chemicals; lead chromate pigments; leaded steel; nonferrous foundries; secondary copper smelting; shipbuilding and ship repairing; and stevedoring. OSHA requested that the record for these nine be remanded again to the Agency for further consideration of economic and technological feasibility. In March 1987, the Court remanded the record to OSHA for these industries.

On July 11, 1989, after public hearings, OSHA published its determination that compliance with paragraph (e)(1) was both technologically and economically feasible for eight of the nine industries (54 FR 29142). For the ninth industry, nonferrous foundries, OSHA distinguished between large foundries (those with 20 or more employees) and small foundries (those with fewer than 20 employees). OSHA concluded that paragraph (e)(1) was feasible for large nonferrous foundries but was not economically feasible for small nonferrous foundries. On January 30, 1990, OSHA published its determination that achieving an airborne lead concentration of 75 μg/m^3 was economically feasible for small foundries (55 FR 3146).

On March 8, 1990, in response to OSHA's statement of reasons regarding the feasibility of paragraph (e)(1), the U.S. Court of Appeals for the D.C. Circuit lifted the judicial stay for all remand industries except the six that contested OSHA's feasibility findings. The 39 industries for which the stay was lifted are: agricultural pesticides; aluminum smelting; ammunition manufacturing; artificial pearl processing; book binding; brick manufacturing; cable coating; cutlery; diamond processing; electroplating; explosives manufacturing; gasoline additive manufacturing; glass manufacturing; jewelry manufacturing; lamp manufacturing; lead burning; lead chromate pigments; leather manufacturing; machining; miscellaneous lead products; nickel smelting; pipe galvanizing; plastics and rubber manufacturing; plumbing; pottery and ceramics; primary and secondary smelting of gold, silver, and platinum; primary copper smelting; sheet metal manufacturing; shipbuilding and ship repair; solder manufacturing; soldering; spray painting; steel manufacturing (excluding leaded steel manufacturing); stevedoring; terne metal; textiles; telecommunications; tin rolling and plating; and zinc smelting. These industries were given two and one-half years (46 FR 60758, Dec. 11, 1981), from the date the stay was lifted, until September 8, 1992, to comply with the PEL by means of engineering and work practice controls.

The stay was continued for the six industries that asserted challenges to OSHA's feasibility findings. These industries are: nonferrous foundries; secondary copper smelting; brass and bronze ingot manufacturing; collection and processing of scrap (including independent battery breaking); leaded steel manufacturing; and lead chemicals manufacturing. On July 19, 1991, in *AISI* v. *OSHA*, 939 F.2d 975 (D.C. Cir. 1991), the Court affirmed OSHA's findings of technological and economic feasibility for all industries except the finding of economic feasibility for brass and bronze ingot manufacturing. Accordingly, the Court lifted the judicial stay for the other five industries.

Secondary copper smelters, lead chemical manufacturing, and large nonferrous foundries were allowed five years from July 19, 1991, the date of the Court's decision, to implement engineering and work practice controls to achieve the PEL of 50 ug/m3. Small nonferrous foundries were allowed five years from that date to achieve an airborne lead concentration of 75 ug/m3.

As to the sixth industry, brass and bronze ingot manufacturing, the stay remained in effect. The Court upheld OSHA's finding of technological

feasibility for that industry but remanded the record to OSHA for further consideration of economic feasibility. For all other lead industries the requirement to comply with paragraph (e)(1) is currently in effect.

In response to the remand, OSHA has reconsidered the record and has concluded that an airborne lead concentration of 75 ug/m3, measured as an 8-hour TWA, is the lowest, economically feasible level that can be achieved by the brass and bronze ingot manufacturing industry as a whole by engineering and work practice controls. Employers in the industry are required, therefore, to reduce airborne concentrations of lead to that level. The industry will have six years from the date the court lifts the existing stay to do so.

OSHA reached this conclusion based upon the evidence in the record as discussed and analyzed at 57 FR 29150–29162 (July 11, 1989). In particular, OSHA relied upon reliable data from OSHA's contractor JACA, showing that nearly three-quarters of all employees in ingot production were already exposed below 50 ug/m3 years ago. Data from recent OSHA inspections are similar. These data show that most employees are exposed below 50 ug/m3 and that 90% are exposed below 100 ug/m3. Taken together, these data suggest that only very limited costs will be incurred in reducing exposure levels in most operations, most of the time to lead in air concentrations at or below 75 ug/m3.

OSHA is assured of the economic feasibility of 75 ug/m3 for three additional reasons. First, OSHA recognizes that in the two most difficult operations to control to 75 ug/m3 by engineering and work practice controls, briquetting and baghouse maintenance, achieving that airborne concentration limit probably is not economically feasible for the industry as a whole. OSHA therefore is not seeking to prove economic feasibility for, or to impose the presumption of economic feasibility on, those operations. Second, in recognition of the economic constraints on the industry, OSHA is allowing employers six years from the date the court lifts the stay on paragraph (e) of the lead standard before employers have to come into compliance with the airborne concentration limit of 75 ug/m3. Employers, thus, can spread the costs of compliance over that time period. And finally, although OSHA did not rely upon it in determining economic feasibility, the fact that industry representatives recognize that 75 ug/m3 is economically feasible is strong confirmation of the accuracy of that determination.

This recognition by the industry is reflected in the settlement agreement signed on June 27, 1995 by OSHA and the Institute of Scrap Recycling Industries (''ISRI'') and the Brass and Bronze Ingot Manufacturers, Inc. (''BBIM''), representing the brass and bronze ingot manufacturing industry. OSHA will incorporate the detailed terms of that agreement into a compliance directive applicable to the industry.

The new compliance dates that result from the stay being lifted, OSHA's determination of economic feasibility, and the settlement agreement are reflected in the Implementation Schedule (Table I) of paragraph (e)(1) of the standard, as amended.

Explanation of Technical Amendments and Corrections

1. Paragraph (e). Methods of compliance—(1) Engineering and work practice controls. The Implementation Schedule (Table I) of paragraph (e)(1) is being revised to reflect the current status of compliance dates for the engineering and work practice requirements for the lead industries as a result of the lifting of the stay on enforcement of paragraph (e)(1) for all of the remaining remand lead industries except brass and bronze ingot manufacturers. The revision of Table I also reflects OSHA's determination regarding economic feasibility for that industry and the settlement agreement between representatives of OSHA and the industry. In addition, reference to interim levels, which are now obsolete, is deleted.

2. Paragraph (e)(4). Bypass of interim level. Paragraph (e) (4) is deleted from 29 CFR 1910.1025 as the interim levels established in this paragraph at the time of promulgation of the lead standard are no longer relevant. To avoid confusion for readers and to maintain continuity of the regulatory text, paragraphs (e)(5) and (e)(6) are redesignated as paragraphs (e)(4) and (e)(5), respectively.

3. Paragraph (f)—Respiratory protection. Paragraph (f)(1)(i) is revised to delete the entire clause beginning with the word ''except,'' which is based on interim levels that are no longer relevant.

4. Paragraph (j). Medical Surveillance.—Paragraph (j)(2)(ii) is revised to clarify that the requirement for follow-up blood sampling tests applies only to the 60 ug/100 g removal trigger and does not apply to the 50 ug/100 g trigger, which already involves an average rather than a single result to be confirmed.

5. Paragraph (k). Medical removal protection—(1) *Temporary medical removal and return of an employee*—(i) *Temporary removal due to elevated blood lead levels.* Paragraphs (k)(1)(i)(A) and (B) are deleted in their entirety as they reference a phase-in schedule for medical removal protection that is no longer relevant. Paragraphs (k)(1)(i)(C) and (D) are revised to maintain consistency with current requirements and are redesignated as paragraphs (k)(1)(i)(A) and (B), respectively, to maintain continuity of the regulatory text.

Paragraphs (k)(1)(iii)(A)(1) and (2) are deleted since they reference interim levels that no longer apply, and paragraphs (k)(1)(iii)(A)(3) and (4) are redesignated as paragraphs (k)(1)(iii)(A)(1) and (2), respectively, to maintain continuity of the regulatory text.

6. This document also corrects several inadvertent errors and updates information in Appendix B and revises certain language in Appendix C which might otherwise be misleading.

With the exception of the amendments to Table I and the determination of economic feasibility for the brass and bronze ingot manufacturing industry, which were the subject of additional fact finding and a settlement agreement, the amendments and corrections described above are minor and not controversial. OSHA does not believe that there is a need to subject these technical amendments and corrections in which the public is not particularly interested to rulemaking or other public procedures (see 29 CFR 1911.5). Good cause is hereby found to dispense with such procedures in this instance. For the same reason, good cause is also found to make these changes effective immediately.

Authority and Signature

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, N.W., Washington, DC 20210.

This action is taken pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1597, 1599, 29 U.S.C 653, 655, 657), Secretary of Labor's Order No. 1–90 (55 FR 9033) and 29 CFR part 1911 and 33 U.S.C 941. Part 1910, Title 29, Code of Federal Regulations, is hereby amended as set forth below.

List of Subjects in 29 CFR Part 1910

Lead, Occupational Safety and Health.

Signed at Washington, D.C., this 2nd day of October, 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended as set forth below:

PART 1910—[AMENDED]

1. The authority citation for Subpart Z of Part 1910 continues to read as follows:

Authority: Secs. 6, 8 Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; and 29 CFR Part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, except those substances which have exposure limits listed in Tables Z–1, Z–2, and Z–3 of 29 CFR 1910.1000. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000 Tables Z–1, Z–2, Z–3 also issued under 5 U.S.C. 553. Section 1910.1000, Table Z–1, Z–2, and Z–3 not issued under 29 CFR part 1911 except for the arsenic (organic compounds), benzene, and cotton dust listings.

Section 1910.1001 also issued under Sec. 107 of Contract Work Hours and Safety Standards Act, 40 U.S.C. 333 and 5 U.S.C. 553.

Section 1910.1002 not issued under 29 U.S.C. 655 or 29 CFR Part 1911; also issued under 5 U.S.C. 553.

Section 1910.1003 through 1910.1018 also issued under 29 U.S.C. 653.

Section 1910.1025 also issued under 29 U.S.C. 653 and 5 U.S.C. 553.

Section 1910.1028 also issued under 29 U.S.C. 653.

Section 1910.1030 also issued under 29 U.S.C. 653.

Section 1910.1043 also issued under 5 U.S.C. 551 et seq.

Sections 1910.1045 and 1910.1047 also issued under 29 U.S.C. 653.

Section 1910.1048 also issued under 29 U.S.C. 653.

Sections 1910.1200, 1910.1499 and 1910.1500 also issued under 5 U.S.C. 553.

Section 1910.1450 is also issued under secs. 6(b), 8(c) and 8(g)(2), Pub. L. 91–596, 84 Stat. 1593, 1955, 1600; 29 U.S.C. 655, 657.

2. Section 1910.1025 is amended by revising Table I in paragraph (e)(1)(ii), and paragraphs (f)(1)(i), (j)(2)(ii), and (k)(1)(i);

3. By removing paragraph (e)(4) and redesignating paragraphs (e)(5) and (6) as paragraphs (e)(4) and (5);

4. By removing paragraphs (k)(1)(i)(A) and (B) and redesignating paragraphs (k)(1)(i)(C) and (D) as (k)(1)(i)(A) and (B); and

5. By removing paragraphs (k)(1)(iii)(A)(1) and (2), and redesignating paragraphs (k)(1)(iii)(A)(3) and (4) as paragraphs (k)(1)(iii)(A)(1) and (2).

§ 1910.1025 Lead.

* * * * *

(e) *Methods of compliance*—(1) *Engineering and work practice controls.*

(ii) * * *

TABLE I

Industry	Compliance dates: [1] (50 μg/m³)
Lead chemicals, secondary copper smelting.	July 19, 1996.
Nonferrous foundries	July 19, 1996. [2]
Brass and bronze ingot manufacture.	6 years.[3]

[1] Calculated by counting from the date the stay on implementation of paragraph (e)(1) was lifted by the U.S. Court of Appeals for the District of Columbia, the number of years specified in the 1978 lead standard and subsequent amendments for compliance with the PEL of 50 μg/m³ for exposure to airborne concentrations of lead levels for the particular industry.

[2] Large nonferrous foundries (20 or more employees) are required to achieve the PEL of 50 μg/m³ by means of engineering and work practice controls. Small nonferrous foundries (fewer than 20 employees) are required to achieve an 8-hour TWA of 75 μg/m³ by such controls.

[3] Expressed as the number of years from the date on which the Court lifts the stay on the implementation of paragraph (e)(1) for this industry for employers to achieve a lead in air concentration of 75 μg/m³. Compliance with paragraph (e) in this industry is determined by a compliance directive that incorporates elements from the settlement agreement between OSHA and representatives of the industry.

* * * * *

(f) *Respiratory protection.*

(1) * * *

(i) During the time period necessary to install and implement engineering or work practice controls.

* * * * *

(j) * * *

(2) * * *

(ii) *Follow-up blood sampling tests.* Whenever the results of a blood lead level test indicate that an employee's blood lead level exceeds the numerical criterion for medical removal under paragraph (k)(1)(i)(A) of this section, the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

* * * * *

(k) * * *

(1) * * *

(i) *Temporary removal due to elevated blood lead levels.* (A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 60 μg/100 g of whole blood; and

(B) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six (6) months, whichever is longer) indicates that the employee's blood lead level is at or above 50 μg/100 g of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40 μg/100 g of whole blood.

* * * * *

6. In § 1910.1025, Appendix B is amended as follows:

Section XV, For Additional Information, Part A, and item 9 are revised and new items 10 through 14 are added to read as follows:

* * * * *

XV. * * *

A. Copies of the Standard and explanatory material may be obtained by writing or calling the OSHA Docket Office, U.S. Department of Labor, room N2634, 200 Constitution Avenue, N.W., Washington, DC 20210. Telephone: (202) 219–7894.

* * * * *

9. Revision to the standard and an additional appendix (Appendix D), **Federal Register**, Vol. 47, pp. 51117–51119, November 12, 1982.

10. Notice of reopening of lead rulemaking for nine remand industry sectors, **Federal Register**, vol. 53, pp. 11511–11513, April 7, 1988.

11. Statement of reasons, **Federal Register**, vol. 54, pp. 29142–29275, July 11, 1989.

12. Statement of reasons, **Federal Register**, vol. 55, pp. 3146–3167, January 30, 1990.

13. Correction to appendix B, **Federal Register**, vol. 55, pp. 4998–4999, February 13, 1991.

14. Correction to appendices, **Federal Register**, vol. 56, p. 24686, May 31, 1991.

* * * * *

7. Appendix C to § 1910.1025, Section I. Medical Surveillance and Monitoring Requirements for Workers Exposed to Inorganic Lead, is amended as follows:

a. In the last sentence of the second paragraph, the words ''A zinc protoporphyrin (ZPP) measurement is strongly recommended . . .'' are revised to read ''A zinc protoporphyrin (ZPP) is required . . .''

b. In Table 2, item B, the words ''(ZPP is also strongly recommended . . .'' are revised to read ''(ZPP is also required . . .''

* * * * *

[FR Doc. 95–25067 Filed 10–10–95; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS JOHN C. STENNIS (CVN 74) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: September 21, 1995.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS JOHN C. STENNIS (CVN 74) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 21(a), pertaining to the placement of the masthead lights over the fore and aft centerline of the ship; Annex I, paragraph 2(g), pertaining to the placement of the sidelights above the hull; and Annex I, paragraph 3(a), pertaining to the placement of the forward masthead light in the forward quarter of the ship. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Two of § 706.2 is amended by adding the following entry:

TABLE TWO

Vessel	Number	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(K), Annex I	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of; Rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters, § 3(b), Annex I
USS JOHN C. STENNIS ..	CVN–74	30.0	.....	.....	.....	.....	0.6	.....	.....

3. Table Five of § 706.2 is amended by adding the following entry:

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light, annex I, sec. 3(a)	Percentage horizontal separation attained
USS JOHN C. STENNIS	CVN 74	.....	X	.....	.....

Dated: September 21, 1995.

C.E. Schaff,

LCDR, JAGC, U.S. Navy, Acting Deputy Assistant Judge Advocate General (Admiralty).

Dated: September 26, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Certifying Officer.

[FR Doc. 95–25136 Filed 10–10–95; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–95–026]

Safety Zones; USX Superfund Site on the St. Louis River

AGENCY: Coast Guard, DOT.

ACTION: Final rule; request for comments.

SUMMARY: The Coast Guard is establishing two safety zones in segments of the St. Louis River near Duluth, Minnesota, in areas which are part of the USX Superfund Site, in order to protect the public from the effects of contaminated sediments at that site. Navigation of vessels through the zones is prohibited. Swimming and fishing are prohibited within the zones. Although this regulation is being made effective immediately in order to protect public health, the public is invited to comment on this action and the Coast Guard will consider changes in this action in response to any comments received.

DATES: This rule is effective on August 31, 1995. Comments on this rule must be received on or before December 15, 1995.

ADDRESSES: Comments and supporting materials should be mailed or delivered to Lieutenant (junior grade) Anthony Beatrez, U.S. Coast Guard Marine Safety Office, 600 S. Lake Ave., Canal Park, Duluth, MN 55802. Please reference the name of the proposal and the docket number in the heading above. If you wish receipt of your mailed comments to be acknowledged, please include a stamped, self-addressed envelope or postcard for that purpose. Comments and materials received will be available for public inspection at the above location from 9 a.m. to 3 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) Anthony Beatrez, U.S. Coast Guard Marine Safety Office, 600 S. Lake Ave., Canal Park, Duluth, MN 55802, (218) 720–5286.

SUPPLEMENTARY INFORMATION:

Immediate Effect of Regulation

In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been contrary to the public interest because the existence of contaminated sediments at this site constitutes an immediate danger to the health of any person swimming in the area or consuming fish from the area. In addition, it is expected that creation of these limited safety zones will have minimal effects on public use of the waterway.

Request for Comments

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable in order to insure that the regulation is both reasonable and workable. Accordingly, the Coast Guard encourages interested persons to participate in this rulemaking by submitting comments which may consist of data, views, arguments, or proposals for amendments to the proposed regulations. The Coast Guard does not currently plan to have a public hearing. However, consideration will be given to holding a public hearing if it is requested. Such a request should indicate how a public hearing would contribute substantial information or views which cannot be received in written form. If it appears that a public hearing would substantially contribute to this rulemaking and there is sufficient time to publish a notice, the Coast Guard will announce such a hearing by a later notice in the **Federal Register**.

Background and Purpose

The USX Superfund Clean-up Site is a 640-acre site located about five miles southwest of the Duluth central business district. The St. Louis River runs along the east and south sides of the site; the river empties into Lake Superior about eight miles downstream of the site. The Duluth subdivisions of Gary and New Duluth are located to the southwest of the site; the subdivisions of Morgan Park and Smithsville are immediately adjacent to the site to the north and northwest, respectively. U.S. Steel and Duluth Works operated a large integrated steel mill on the site from about 1915 until 1979. Operations included coke and iron production, open hearth steel production, wire rolling, and wire milling. Although the Duluth Works operation closed in 1979, the Hallett Co. continued to operate a wire mill on the site until 1987. Soil, sediments, surface water, and ground water at the site are contaminated with coke and tar products which contain high concentrations of polycyclic aromatic hydrocarbons (PAHs). Sediments also contain elevated levels of heavy metals. PAHs include phenanthrene, acenaphthene, and fluoranthene. The Minnesota Department of Health (MDH) has determined that the site is a public health concern from possible exposure to hazardous substances via dermal contact, ingestion, or inhalation of contaminated soil or sediments. Therefore, based on advice from MDH, the Coast Guard Captain of the Port in Duluth has determined that swimming or fishing in the designated areas is unsafe. In addition, to prevent agitation of the bottom and further spreading of contaminated sediments, vessel traffic through the areas is prohibited.

Drafting Information

The drafters of this regulation are Lieutenant (junior grade) Anthony Beatrez, U.S. Coast Guard Marine Safety Office, Duluth, and Commander Eric Reeves, Chief, Port & Environmental Safety Branch, Ninth Coast Guard District.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation, and has so certified in the docket file. This regulatory action is being taken to protect the public from the danger posed by contamination at the site and is designed to limit the existing threat to the environment.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This routine use of traditional and well-recognized Coast Guard authority over the navigable waters is being taken on the advice of, and in consultation with, the Minnesota Department of Health.

Regulatory Evaluation

This regulation is considered to be nonsignificant under Executive Order 12866 on Regulatory Planning and Review and nonsignificant under

Department of Transportation regulatory policies and procedures (44 FR 11034 of February 26, 1979). There are few if any persons currently using the area for swimming or fishing, and any restrictions on vessel movement will be temporary. The safety zones do not extend into the main navigation channel. Therefore, any restriction on vessel transit will have minimal, if any, effect.

Small Entities

The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulations

In consideration of the foregoing, the Coast Guard amends Subpart F of Part 165 of title 33, Code of Federal Regulations as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–6, and 160.5; and 49 CFR 1.46.

2. A new § 165.905 is added to read as follows:

§ 165.905 USX Superfund Cite Safety Zones: St. Louis River.

(a) The following areas of the St. Louis River, within the designated boxes of latitude and longitude, are safety zones:

(1) *Safety Zone* #1 (*North Spirit Lake*):
North Boundary: 46°41′33″ W
South Boundary: 46°41′18″ W
East Boundary: 92°11′53″ W
West Boundary: 92°12′11″ W

(2) Safety Zone #2 (*South Spirit Lake*):
North Boundary: 46°40′45″ N
South Boundary: 46°40′33″ N
East Boundary: 92°11′40″ W
West Boundary: 92°12′05″ W

(b) Transit of vessels through the waters covered by these zones is prohibited. Swimming (including water skiing or other recreational use of the water which involves a substantial risk of immersion in the water) or taking of fish (including all forms of aquatic animals) from the waters covered by these safety zones is prohibited at all times.

Dated: August 31, 1995.

D.S. Gilbert,

Captain, U.S. Coast Guard, Captain of the Port Duluth.

[FR Doc. 95–25171 Filed 10–10–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AH67

Reinstatement of Benefits Eligibility Based Upon Terminated Marital Relationships

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning reinstatement of benefits for a surviving spouse of a veteran whose remarriage after the veteran's death is terminated by legal proceedings. The amendment makes clear that such proceedings must have been brought by the individual seeking to establish his or her status as the veteran's surviving spouse. The purpose of the amendment is to make the regulation conform to the relevant statute.

EFFECTIVE DATE: This amendment is effective October 11, 1995.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: A surviving spouse of a veteran must be unmarried to receive VA benefits. The law regarding the eligibility for benefits of a surviving spouse of a veteran who remarries after the veteran's death and whose remarriage later terminates has changed several times in recent years.

Before November 1, 1990, 38 U.S.C. 103(d)(2) provided that the remarriage of a surviving spouse of a veteran would not bar benefits if the remarriage was terminated by death or dissolved by a court with basic authority to render divorce decrees, unless VA determined that the divorce was secured through fraud by the surviving spouse or collusion.

The Omnibus Budget Reconciliation Act of 1990 (OBRA), Pub. L. 101–508, deleted 38 U.S.C. 103(d)(2). The effect of this change was to deny benefits to those filing claims on or after November 1, 1990, who had remarried at any time after the death of the veteran.

The Veterans' Benefits Programs Improvement Act of 1991, Pub. L. 102–86, provided that the 1990 OBRA amendments would not apply to any person who met the statutory definition of a surviving spouse on October 31, 1990, unless after that date the individual married or lived with another person and held himself or herself out openly to the public as that person's spouse.

The Veteran's Benefits Act of 1992, Pub. L. 102–568, provided in section 103 that the 1990 OBRA amendment would not apply to any case in which a legal proceeding that terminated an existing marital relationship was commenced before November 1, 1990, by an individual who, but for that marital relationship, would be considered the surviving spouse of a veteran.

VA regulations pertaining to reinstatement of benefits eligibility of a surviving spouse based upon termination of a marital relationship appear at 38 U.S.C. 3.55(a). Previously, subsection (a) included the following provisions:

(2) On or after January 1, 1971, remarriage of a surviving spouse terminated prior to November 1, 1990, or terminated by legal proceedings commenced prior to November 1, 1990, shall not bar the furnishing of benefits to such surviving spouse provided that the marriage:

* * * * *

(ii) Has been dissolved by a court with basic authority to render divorce decrees unless the Department of Veterans Affairs determines that the divorce was secured through fraud by the surviving spouse or through collusion.

* * * * *

Since 38 CFR 3.55(a)(2) previously did not provide that the legal proceedings which result in termination of the remarriage must have been commenced by the individual seeking benefits as a veteran's surviving spouse, it is now amended to conform with section 103 of Pub. L. 102–568. We are also making nonsubstantive amendments to 38 CFR 3.400 in order to update cross-references and authority citations.

VA is issuing a final rule to make the above described amendments. The amendment to 38 CFR 3.55(a)(2) is necessary to conform that regulatory

provision with Pub. L. 102–568. Because these amendments merely restate a statutory provision and make nonsubstantive changes, publication as a proposal for public comment is unnecessary.

Administrative Procedure Act

The substantive changes made by this final rule merely reflect a statutory change contained in Pub. L. 102–568. Accordingly, pursuant to 5 U.S.C. 553, there is a basis for dispensing with prior notice and comment on this final rule and dispensing with a 30-day delay of its effective date.

Regulatory Flexibility Act

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The catalog of Federal Domestic Assistance program numbers are 64.101, 64.105, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: September 11, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.55 [Amended]

2. In § 3.55(a)(2)introductory text add ''by an individual who, but for the remarriage, would be considered the surviving spouse,'' immediately before ''shall not bar''.

§ 3.400 [Amended]

3. In § 3.400(u)(3) remove ''§ 3.55(e)'' and add, in its place, ''§ 3.55(b)''.

4. In § 3.400(u)(4) remove ''§ 3.55(e)'' and add, in its place, ''§ 3.55(b)''.

5. In § 3.400(v), the heading, remove ''38 U.S.C. 103(d)(2)'' and add, in its place, ''38 U.S.C. 103(d)''.

6. In § 3.400(v)(3) remove ''§ 3.55(b)'' and add, in its place, ''§ 3.55(a)''.

7. In § 3.400(v)(4) remove ''§ 3.55(b)'' and add, in its place, ''§ 3.55(a)''.

8. In § 3.400(w), the heading, remove ''103(d)(3),''.

9. In § 3.400(w) remove ''§ 3.55(c) or (d)'' and add, in its place, ''§ 3.55(a)''.

[FR Doc. 95–25128 Filed 10–10–95; 8:45 am]

BILLING CODE 8320–01–P

38 CFR Part 3

RIN 2900–AH48

Examinations

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning compensation and pension claims filed by veterans, surviving spouses, or parents. This changes the language for authorizing VA examinations by providing that a VA examination will be authorized where there is a well-grounded claim for disability compensation but where the medical evidence accompanying the claim is not adequate for rating purposes. This more accurately reflects statutory language and caselaw requirements concerning such VA examinations.

DATES: The effective date of this interim final rule is October 11, 1995. Comments must be received on or before December 11, 1995.

ADDRESSES: Mail written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or hand-deliver written comments to: Office of Regulations Management, Room 1176, 801 Eye Street NW., Washington, DC 20001. Comments should indicate that they are in response to ''RIN 2900–AH48.'' All written comments received will be available for public inspection in the Office of Regulations Management, Room 1176, 801 Eye Street NW., Washington, DC 20001, between the hours 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–7210.

SUPPLEMENTARY INFORMATION: For many years VA regulations provided that a compensation claim could not be rated without a current VA examination, or a report deemed to be the equivalent of a VA examination. In general, hospital reports (government or private) were deemed to be VA examinations if otherwise adequate for rating purposes, but private physicians' reports were not.

On July 14, 1994, VA published a final rule in the **Federal Register** (59 FR 35851) amending 38 CFR 3.326 to permit acceptance of a private physician's statement for the purpose of rating claims for increased compensation due to the increased severity of service-connected disabilities. A private physician's statement, however, was still not acceptable for rating an original compensation claim.

On November 2, 1994, the Veterans' Benefits Improvements Act of 1994, Pub. L. 103–446, was signed into law. Section 301 of Pub. L. 103–446 underscored the Secretary of Veterans Affairs' discretionary authority to accept the report of a private physician's examination that is otherwise adequate for rating purposes to establish entitlement to any compensation or pension benefit. A final rule enabling the Secretary to exercise that discretionary authority was published on May 24, 1995 in the **Federal Register** (60 FR 27409). That final rule amended 38 CFR 3.326(d) as well as §§ 3.157, 3.327, and 3.352.

Previously, paragraph (a) of § 3.326 indicated that a VA examination would be authorized where the reasonable probability of a valid claim was indicated in any compensation or pension claim filed by a veteran, surviving spouse, or parent, whether an original or reopened claim or a claim for increase. This document revises paragraph (a) to state that a VA examination will be authorized where there is a ''well-grounded claim'' for disability compensation or pension but where the medical evidence accompanying the claim is not adequate for rating purposes. We believe this will not cause a substantial change in the criteria for authorizing VA examinations; however, this change is made to more accurately reflect statutory language and caselaw requirements concerning such VA examinations.

The Court of Veterans Appeals has held that scheduling a VA examination may be required as part of VA's duty to assist the claimant under 38 U.S.C. 5107(a), and that the duty to assist attaches when a claim is well-grounded, i.e., when the claim is plausible, meritorious on its own, or capable of substantiation. See, e.g., *Betties* v. *Brown,* 6 Vet. App. 333, 336 (1993).

The amendments made by this document do not affect the provisions already in the place that require former prisoners of war to be afforded a complete examination at a VA hospital

or outpatient clinic prior to any rating action denying monetary benefits.

Also, nonsubstantive changes are made to delete provisions that no longer apply and to simply and clarify other provisions.

Under 5 U.S.C. 553 there is a basis for dispensing with prior notice and comment and for dispensing with a 30-day delay of the effective date since the interim rule consists of VA policy and is interpretive in nature.

The Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The interim final rule would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), the interim final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.104, 64,105, 64.106, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: July 31, 1995.

Jesse Brown,

Secretary, Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.326 is revised to read as follows:

§ 3.326 Examinations.

For purposes of this section, the term examination includes periods of hospital observation when required by VA.

(a) Where there is a well-grounded claim for disability compensation or pension but medical evidence accompanying the claim is not adequate for rating purposes, a Department of Veterans Affairs examination will be authorized. This paragraph applies to original and reopened claims as well as claims for increase submitted by a veteran, surviving spouse, parent, or child. Individuals for whom an examination has been scheduled are required to report for the examination.

(b) Provided that it is otherwise adequate for rating purposes, any hospital report, or any examination report, from any government or private institution may be accepted for rating a claim without further examination. However, monetary benefits to a former prisoner of war will not be denied unless the claimant has been offered a complete physical examination conducted at a Department of Veterans Affairs hospital or outpatient clinic.

(c) Provided that it is otherwise adequate for rating purposes, a statement from a private physician may be accepted for rating a claim without further examination.

(Authority: 38 U.S.C. 5107(a))

[FR Doc. 95–25129 Filed 10–10–95; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7164

[ID–943–1430–01; IDI–011668–02]

Partial Revocation of Public Land Order No. 3398; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order (PLO) insofar as it affects 1.42 acres of public land withdrawn for the Bureau of Land Management as a stock driveway. The land is no longer needed for this purpose, and the revocation is needed to permit disposal of land through public sale. This action will open the land to surface entry. The land has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: November 13, 1995.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706–2500, 208–384–3166.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 3398, which withdrew public land for the Bureau of Land Management as a stock driveway, is hereby revoked insofar as it affects the following described land:

Boise Meridian

T. 6 N., R. 3 W.,
Sec. 9, lots 8 and 9.

The area described contains 1.42 acres in Gem County.

2. At 9 a.m. on November 13, 1995, the land described above will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on November 13, 1995, shall be considered as simultaneously filed at that time.

Dated: September 15, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–25137 Filed 10–10–95; 8:45 am]

BILLING CODE 4310–GG–P

43 CFR Public Land Order 7165

[AK–932–1430–01; AA–65553]

Partial Revocation of Executive Order No. 4410, dated April 1, 1926; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order insofar as it affects 41.25 acres of public land withdrawn for use by the Coast Guard, Department of Transportation, for the Wrangell Narrows Lighthouse Reserve. The land is no longer needed for the purpose for which it was withdrawn. Upon revocation, the land will be subject to the terms and conditions of Public Land Order No. 5180, as amended, and any other withdrawal of record. The land has been and will remain open to location and entry under the United States mining laws for metalliferous minerals.

EFFECTIVE DATE: October 11, 1995.

FOR FURTHER INFORMATION CONTACT: Sue A. Wolf, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by Section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1) (1988), it is ordered as follows:

1. Executive Order No. 4410, dated April 1, 1926, as amended, which withdrew public land for lighthouse purposes, is hereby revoked insofar as it affects the following described land:

Copper River Meridian

T. 59 S., R. 79 E., partly unsurveyed
Sec. 26, lot 3.

The area described contains 41.25 acres.

2. The land described above will be subject to Public Land Order No. 5180, as amended, and will remain withdrawn from all forms of appropriation under the public land laws and from location and entry under the mining laws except locations for metalliferous minerals.

Dated: September 15, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–25138 Filed 10–10–95; 8:45 am]

BILLING CODE 4310–JA–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

Competitive Bidding Proceedings—Designated Entities; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting Amendments.

SUMMARY: This document contains corrections to the final regulations, which were published August 26, 1994 (59 FR 44293). The regulations related to designated entity provisions in competitive bidding proceedings.

EFFECTIVE DATE: October 11, 1995.

FOR FURTHER INFORMATION CONTACT:

Diane M. Law, Wireless Telecommunications Bureau, (202) 418–0660.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections defined ''designated entities'' for the purposes of competitive bidding proceedings and established preferences for which they are eligible.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Reporting and recordkeeping requirements, Telecommunications.

Accordingly, 47 CFR Part 1 is corrected by making the following correcting amendments:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for Part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154, 303, and 309(j) unless otherwise noted.

§ 1.2110 [Corrected]

2. In § 1.2110, paragraph (b)(4)(x)(C) should be redesignated as paragraph (c).

3. In § 1.2110, paragraph (b)(4)(x)(D) should be redesignated as paragraph (d).

4. In § 1.2110, paragraph (b)(4)(x)(E) should be redesignated as paragraph (e).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25142 Filed 10–10–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 43 and 61

[CC Docket No. 93–36; FCC 95–399]

Tariff Filing Requirements for Nondominant Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action, the Commission reinstates those tariff filing requirements adopted in the Nondominant Filing Order that were not addressed in the Court of Appeals' decision vacating that Order. In accordance with the court's decision, the Commission amends its rules to remove the provision that had permitted domestic, nondominant common carriers to file tariffs containing rates expressed in a manner of the carrier's choosing, including as a reasonable range of rates. The Commission also denies a petition for partial reconsideration of the Nondominant Filing Order and dismisses an application for stay of a portion of that Order as moot. Finally, by this action, the Commission amends its rules to delete references to the Commission's forbearance policy that are inconsistent with earlier court decisions vacating that policy and to implement changes to the Nondominant Filing Order, which were erroneously omitted from the Code of Federal Regulations.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Katherine Schroder, (202) 418–1530.

SUPPLEMENTARY INFORMATION: In 1993 the Commission adopted streamlined tariff filing requirements for domestic, nondominant common carriers in the Nondominant Filing Order, 58 FR 44457, August 23, 1993. On January 20, 1995, the United States Court of Appeals for the District of Columbia Circuit vacated the Commission's Nondominant Filing Order. The court concluded that the Commission's rule permitting domestic nondominant carriers to file tariffs containing rates expressed in any manner of the carrier's choosing, including as a reasonable range of rates violates the Communications Act of 1934. The Commission now interprets the court's decision as invalidating only the range of rates provisions adopted in the Nondominant Filing Order, and reinstates the other tariff filing rules for domestic, nondominant common carriers adopted in that Order.

The Commission denies a petition filed by Ad Hoc Telecommunications Users Committee seeking reconsideration of the one-day notice period established in the Nondominant Filing Order. The Commission dismisses as moot an application for stay, filed by AT&T Communications, pending appellate review of that portion of the Order that authorized domestic, nondominant common carriers to file ranges of rates in their tariffs. In light of the court's ruling on ranges of rates, the Commission dismisses as moot the application for stay. Because no further purpose would be served by keeping CC Docket No. 93–36 open, the Commission terminates this proceeding.

The Commission also amends Section 43.51(a) to incorporate changes to the rule made by an erratum to the Nondominant Filing Order, which were not reflected in the Code of Federal Regulations. Finally, the Commission takes this opportunity to delete references to forbearance in Section 43.51(b), thereby conforming that section with earlier court decisions invalidating the Commission's forbearance policy.

The full text of this item is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Paperwork Reduction Act

Public burden for the collections of information is estimated to average 10.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and

completing and reviewing the collections of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestion for reducing the burden, to the Federal Communications Commission, Records Management Branch, Paperwork Reduction Project (3060–0540), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060–0540), Washington, DC 20503.

List of Subjects

47 CFR Part 43

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 61

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Parts 43 and 61 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

1. The authority citation for Part 43 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 220, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Section 43.51 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

§ 43.51 Contracts and concessions.

(a) Any communications common carrier that: is engaged in domestic communications and has not been classified as nondominant pursuant to § 61.3 of this chapter or is engaged in foreign communications, and enters into a contract with another carrier, including an operating agreement with a communications entity in a foreign point for the provision of a common carrier service between the United States and that point; must file with the Commission, within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization, operating agreement or other arrangement to which it is a party and amendments thereto with respect to the following:

* * * * *

(b) If the agreement referred to in this section is made other than in writing, a certified statement covering all details thereof must be filed by at least one of the parties to the agreement. Each other party to the agreement which is also subject to these provisions may, in lieu of also filing a copy of the agreement, file a certified statement referencing the filed document. The Commission may, at any time and upon reasonable request, require any communication common carrier classified as nondominant, and therefore not subject to the provisions of this section, to submit the documents referenced in this section.

* * * * *

PART 61—TARIFFS

3. The authority citation for Part 61 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201–205, and 403, unless otherwise noted.

§ 61.22 [Amended]

4. Section 61.22(b) is amended by removing the second sentence.

[FR Doc. 95–25144 Filed 10–10–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AD03

Addition of Cape May National Wildlife Refuge to the List of Open Areas for Hunting in New Jersey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) adds Cape May National Wildlife Refuge to the list of areas open for big game hunting in New Jersey along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

EFFECTIVE DATE: This rule is effective October 11, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240; Telephone (703) 358–2029, X–5242.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking opens Cape May National Wildlife Refuge to big game (white-tailed deer) hunting.

In the June 9, 1995, issue of the **Federal Register**, 60 FR 30686, the Service published a proposed rulemaking and invited public comment. All substantive comments were reviewed and considered following a 60-day public comment period.

Five organizations provided comments opposing the rule based on the rationale that recreational deer hunting was not justified nor compatible with the primary purpose for which the refuge was established. These comments also indicated an opinion that the Service failed to show adequate evidence that the proposed reduction of deer numbers through hunting is based on solid scientific evidence, and that alternative herd reduction methods were considered. Comments further indicated that an explanation was not presented that hunting could de-stabilize this deer herd and cause a compensatory rebound of offspring within the hunted population, and that the majority of the public is opposed to hunting on national wildlife refuges.

The Refuge Manager conducted a compatibility determination, on behalf of the Service, of the feasibility of deer hunting being applied as a management tool to control the refuge white-tailed deer population as well as to provide a quality wildlife dependent recreational opportunity for deer hunters. The Manager's documented findings within the compatibility determination as well as within the environmental assessment were as follows: 1. the proposed white-

tailed deer hunt was indeed compatible with the major purposes for which the refuge was established; 2. the proposed hunt was within the policy guidelines of the Service to be applied as both a herd management tool, and as a method to provide recreational opportunities for deer hunters; and that, 3. abundant scientific evidence exists which concludes that the recreational hunting of deer as a harvest technique is indeed a biologically sound practice, which could be expected to produce and sustain a healthy refuge white-tailed deer herd.

Substantive comments were also received referencing the environmental assessment completed for this hunt proposal, and that alternative number two, which parallels the program outlined in this final rule, provides for wildlife-dependent recreation while effectively protecting and controlling deer populations within the refuge. Other comments supported hunting as a management tool to control deer depredations on private land surrounding the refuge.

The Service selects the alternative herd management method as proposed in the Refuge Environmental Assessment and as adopted and presented in the final rule. Recreational deer hunting is a biologically sound management technique that provides the best herd management and depredation control.

This rule will be final upon publication. Consideration was given to delaying this final rule for a 30-day period, however, it was determined by the Service that any further delay in the implementation of this refuge-specific regulation will hinder the effective planning and administration of the hunt. Public comment was received on this proposal during the Environmental Assessment planning phase as well as the 60 day comment period for this rule. A delay of an additional 30-days would specifically jeopardize holding the hunt this year, or shorten its duration and thereby lessen the herd management effectiveness of this regulation. Therefore, the Service finds good cause to make this rule effective upon publication (5 U.S.C. 553 (d)(3)).

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when the Secretary determines that such uses are compatible with the purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge unit has included in its ''openings package'' for Regional review and approval from the Washington Office the following documents: A hunting/fishing plan; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 evaluation or statement, pursuant to the Endangered Species Act, that these openings are not likely to adversely affect a listed species or critical habitat; a letter of concurrence from the affected States; and refuge-specific regulations to administer the hunts. From a review of the totality of these documents, the Secretary has determined that the opening of the Cape May National Wildlife Refuge to big game hunting is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, the Secretary has also determined that this opening for big game hunting is compatible and consistent with the primary purposes for which the refuge was established. The Secretary has also determined that funds are available to administer the programs. A brief description of the hunting program is as follows:

Cape May National Wildlife Refuge

The Cape May National Wildlife Refuge was established administratively on January 20, 1989, under the authority of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j; 70 Stat. 1119), as amended. The broad purposes of the refuge are for the development, advancement, management, conservation, and protection of fish and wildlife resources and for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. There are approximately 16,700 acres within the approved refuge acquisition boundary. The Fish and Wildlife Service (Service) has already purchased approximately 6,700 acres of the acquisition area. The refuge is located in the Townships of Middle, Dennis and Upper in Cape May County, New Jersey. The refuge is divided into the Great Cedar Swamp Division and the Delaware Bay Division. Both are approximately equal in size. The topography of the refuge is typical of the coastal areas of New Jersey, where uplands taper gradually to a wide band of saltmarsh. There are 22 major vegetation types found on the refuge. These communities include mixed hardwood swamps, oak/pine forests, Atlantic white cedar swamps, and estuarine communities dominated by Spartina patens, and saltmarsh cordgrass.

The unique configuration and location of Cape May attracts flocks of raptors, songbirds and woodcock. The refuge supports a variety of animal life, including approximately 317 species of birds, 42 species of mammals, 55 species of reptiles and amphibians, and numerous species of fish, shellfish, and other invertebrates. Furbearers of economic importance inhabiting the area include otter, muskrat, and raccoon. Small mammals such as shorttail shrews and white-footed mice are common in upland fields and shrub habitat. Gray and red foxes are also common.

State deer biologists estimate a deer density of approximately 18 deer per square mile in Cape May County's Deer Management Zone (DMZ) 34, of which the refuge is a part. The deer population has increased since 1981 with a corresponding increase in farmer complaints. The number of complaints has risen from 4 in 1990 to 12 in 1993. Crop depredation permitted kills have increased from 9 in 1990 to 36 in 1993. In order to address the below average herd health indices, and to reduce deer complaints in DMZ 34, the short-term goal of the New Jersey Division of Fish, Game and Wildlife is to reduce the herd by approximately 20 percent. There are no data on the number of hunters who have used the area within the refuge acquisition area in the past. However, the refuge estimates the annual visitation for deer hunting is less than 500 visits. Based on refuge law enforcement officers' observation during the past two firearms deer hunting seasons, hunting pressure on private land surrounding the refuge is low.

The sport hunting program will be monitored by refuge personnel, and conducted according to New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife deer hunt regulations.

Opening the refuge to big game hunting has been found to be compatible in a separate compatibility determination. The hunting program will be reviewed annually to ensure that a harvestable surplus of animals exist, and that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. It was determined that the proposed action is not likely to adversely affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the hunt. During the preparation of the environmental assessment, biologists and management personnel within the New Jersey Division of Fish, Game and Wildlife were consulted. Comments were solicited from the public during the draft environmental assessment phase. Articles on this assessment were carried in the local newspapers and sent to Federal, State and local legislators and conservation groups.

The Service has determined that there would be sufficient funds to administer the proposed hunt. Sufficient funds would be available within the refuge unit budget to operate such a hunt as proposed.

Paperwork Reduction Act

The information collection requirements for Part 32 are found in 50 CFR part 25 and have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) has revealed that the rulemaking would not appreciably increase hunter visitation to the surrounding area of the refuge before, during or after the hunt, since most hunters were already from the local area. Therefore, the rulemaking would not have a significant effect on the substantial number of small entities, such as businesses, organizations and governmental jurisdictions in the area.

Federalism

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessment, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that no adverse impact would occur to any identified threatened or endangered species.

Primary Author

Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this final rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, and Wildlife Refuges.

Accordingly, Part 32 of chapter I of Title 50 of the Code of Federal Regulations is amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.7 [Amended]

2. Section 32.7 *List of refuge units open to hunting and/or fishing* is amended by adding the alphabetical listing of ''Cape May National Wildlife Refuge'' under the state of New Jersey.

3. Section 32.49 *New Jersey* is amended by adding the alphabetical listing of Cape May National Wildlife Refuge to read as follows:

* * * * *

§ 32.49 New Jersey.

* * * * *

Cape May National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved.]

B. Upland Game Hunting. [Reserved.]

C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: During the firearms big game season, hunters must wear, in a conspicuous manner on head, chest and back, a minimum of 400 square inches of solid-colored hunter orange clothing or material.

D. Sport Fishing. [Reserved.]

* * * * *

Dated: September 25, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–25146 Filed 10–10–95; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 60, No. 196
Wednesday, October 11, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Docket No. AO–79–2; FV95–985–4]

Spearmint Oil Produced in the Far West; Hearing on Proposed Amendment of Marketing Order No. 985

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: Notice is hereby given of a public hearing to consider amending Marketing Order No. 985 (order). The order regulates the handling of spearmint oil grown in the Far West. The purpose of the hearing is to receive evidence on a proposal to amend provisions of the order. The Department of Agriculture (Department) is proposing this action to determine if portions of both the States of California and Montana should continue to be regulated under the order.

DATES: The hearing will begin at 9 a.m. in Spokane, Washington, on November 14, 1995. An additional session will be held on November 15, 1995, beginning at 9 a.m., if necessary.

ADDRESSES: The hearing will be held at Crescent Court, 707 W. Main, 3rd floor, Spokane, Washington 99201.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2523–S., P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5127 or FAX (202) 720–5698; or Robert Curry, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, room 369, Portland, OR 97204–2807; telephone: (509) 326–2724 or FAX (509) 326–7440.

SUPPLEMENTARY INFORMATION: This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866. The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The Regulatory Flexibility Act (95 U.S.C. 601 *et seq.*) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impact of the proposal on small businesses.

The notice of hearing herein has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. The notice of hearing would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this notice to consider an amendment.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

The Department is proposing to reexamine § 985.5 ''Production Area'' under the order to determine if portions of California and Montana should continue to be regulated. This would require revision of the definition of ''Production Area'' in the order to eliminate areas currently regulated under the order that no longer need to be covered in order to effectuate the declared policy of the Act. Evidence will also be collected to determine if the order covers the smallest regional production area practicable, consistent with carrying out the policy of the Act.

The public hearing is being held solely for the purpose of: (i) Receiving evidence about the economic and marketing conditions which relate to the composition of the regulated area under the order; (ii) determining whether there is a need to amend the order; and (iii) determining if amendment will tend to effectuate the declared policy of the Act.

The major area in which USDA is seeking evidence includes the following:

Should portions of the production area with no historic record of commercial production of spearmint oil continue to be regulated under the order?

Specifically, evidence is needed to determine if California and Montana should continue to be regulated under the order and whether the ''Production Area'' as defined under the order constitutes the smallest practicable area to be regulated.

Everyone having an interest in this matter is invited to testify. Persons wishing to submit written material as evidence at the hearing should submit at least four copies of such material and should be present at the hearing to present oral testimony concerning the material.

Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, Agricultural Marketing Service; Office of the General Counsel, and the Fruit and Vegetable Division, Agricultural Marketing Service.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Testimony is invited on the following proposal or appropriate alternatives or modifications to such a proposal. The proposal being submitted by the USDA is as follows:

Proposal

§ 985.5 Production area.

Production area means all the area within the States of Washington, Idaho, Oregon, and that portion of Nevada north of the 37th parallel and that portion of Utah west of the 111th meridian. The area shall be divided into the following districts:

(a) *District 1.* State of Washington.

(b) *District 2.* The State of Idaho and that portion of the States of Nevada and Utah included in the production area.

(c) *District 3.* The State of Oregon.

Authority: 7 U.S.C. 601–674.

Dated: October 4, 1995.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 95–25121 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–71–AD]

Airworthiness Directives; Jetstream Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise an existing airworthiness directive (AD), applicable to certain Jetstream Model 4101 airplanes, that currently requires repetitive inspections to detect damage to the overwing fairings, and replacement or repair of structurally damaged fairings. That AD was prompted by a report indicating that an overwing fairing detached from an airplane. The actions specified by that AD are intended to prevent reduced controllability of the airplane due to loss of an overwing fairing. This action would add an optional terminating action for the currently required inspections, and would limit the applicability of the rule.

DATES: Comments must be received by November 20, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–71–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–71–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–71–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 22, 1994, the FAA issued AD 94–24–09, amendment 39–9082 (59 FR 60891, November 29, 1994), applicable to certain Jetstream Model 4101 airplanes, to require repetitive inspections to detect damage to the overwing fairings, and replacement or repair of structurally damaged fairings. That AD was prompted by a report that an overwing fairing detached from an airplane. The actions specified by that AD are intended to prevent reduced controllability of the airplane due to loss of an overwing fairing.

Since the issuance of that AD, the manufacturer has developed a modification which, if installed on the airplane, will eliminate the need for the repetitive inspections of the overwing fairings. This modification (Modification No. JM41392) is described in Jetstream Alert Service Bulletin J41–53–031, dated November 22, 1994. It entails the installation of a new fairing that has stronger stiffeners and has one additional stiffener and an access panel. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this service bulletin as optional.

Additionally, Jetstream has issued Alert Service Bulletin J41–53–028, Revision 2, dated January 17, 1995, which describes procedures for conducting detailed visual inspections to detect structural damage (such as creasing, cracking, or holes) in the left (Part 1) and right (Part 2) overwing fairings, and repair or replacement of creased or cracked fairings with new or serviceable fairings. Revision 1 of this service bulletin was cited in AD 94–24–09 as the appropriate source of service information for performing these inspections and repairs. Information contained in Revision 2 of this service bulletin is essentially the same as that contained in Revision 1; however, the effectivity listing has been revised to indicate that the inspections are applicable only to airplanes on which Modification JM41392 has not been installed in production or in accordance with Jetstream Service Bulletin J41–53–031. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are

certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would revise AD 94–24–09 to continue to require repetitive inspections to detect damage to the overwing fairings, and replacement or repair of structurally damaged fairings. The proposed AD would reference Revision 2 of Jetstream Alert Service Bulletin J41–53–028 as an additional source of service information for performing these required actions.

This proposed AD would provide for an optional terminating action for the repetitive inspections, consisting of the installation of Modification JM41392 (improved wing-to-fuselage fairings). If this optional modification is installed, it would be required to be accomplished in accordance with Jetstream Service Bulletin J41–53–031, described previously. The FAA is not proposing to mandate the installation of this modification for several reasons:

1. The repair of cracked original fairings in accordance with the procedures specified in Service Bulletin J41–53–028 and the existing AD greatly reduces the probability of additional cracking. Further, subsequent to such repair, inspections of the area would continue to be required.

2. Accessing the wing-to-fuselage fairing area for inspection is easily accomplished.

3. The subject damage is easily detectable by means of a visual inspection.

4. The failure of a fairing may adversely affect the controllability of the airplane temporarily; however, it likely will not result in catastrophic loss of the airplane.

The applicability of the proposed AD has been revised to include only those airplanes on which Modification JM41392 has not been installed (either in production or in accordance with Jetstream Service Bulletin J41–53–031).

The FAA estimates that 14 airplanes of U.S. registry would be affected by this proposed AD.

The inspections currently required by AD 94–24–09 take approximately 0.25 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the total cost impact of the current inspection requirements of this AD on U.S. operators is estimated to be $210, or $15 per airplane, per inspection.

Should an operator elect to install the optional terminating modification, it would take approximately 20 work hours to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $7,300 per airplane. Based on these figures, the total cost impact of this proposed optional terminating modification on U.S. operators is estimated to be $8,500 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9082 (59 FR 60891, November 29, 1994), and by adding a new airworthiness directive (AD), to read as follows:

Jetstream Aircraft Limited: Docket 95–NM–71–AD. Revises AD 94–24–09, amendment 39–9082.

Applicability: Model 4102 airplanes; constructor's number 41004 and subsequent; on which Modification JM41392 has not been installed (either during production or in accordance with Jetstream Service Bulletin J41–53–031); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane, accomplish the following:

(a) Within 7 days after December 14, 1994 (the effective date of AD 94–24–09, amendment 39–9082), perform a detailed visual inspection to detect structural damage (such as creasing, cracking, or holes) to the left (Part 1) and right (Part 2) overwing fairings, in accordance with Jetstream Alert Service Bulletin J41–53–028, Revision 1, dated October 12, 1994; or Revision 2, dated January17, 1995.

(1) If no structural damage is detected, repeat the inspection thereafter at intervals not to exceed 7 days.

(2) If creasing or cracking is detected, prior to further flight, inspect and repair it, in accordance with the alert service bulletin. Repeat the inspection thereafter at intervals not to exceed 300 hours time-in-service.

Note 2: Jetstream Alert Service Bulletin J41–53–028 references British Aerospace Public Limited Company Drawing 141R0700, Issue 3, dated September 14, 1994, and British Aerospace Public Limited Company Drawing 141R0705, Issue 2, dated September 22, 1994, for repair and inspection procedures.

(3) If holes are detected, prior to further flight, repair in accordance with the Jetstream Series 4100 Structural Repair Manual. Repeat the inspection thereafter at intervals not to exceed 300 hours time-in-service.

(b) Installation of Modification No. JM41392, Parts 1 and 2, in accordance with Jetstream Service Bulletin J41–53–031, dated November 22, 1994, constitutes terminating action for the inspections required by paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance

Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

Note 4: Alternative methods of compliance previously granted for amendment AD 94–24–09, amendment 39–9082, continue to be considered as acceptable alternative methods of compliance with this amendment.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 4, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–25159 Filed 10–10–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–137–AD]

Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Airbus Model A310 and A300–600 series airplanes, that currently requires a revision to the FAA-approved Airplane Flight Manual (AFM) that warns the flight crew about certain consequences associated with overriding the autopilot while it is in the COMMAND mode or in the pitch axis. That AD also requires modification of certain flight control computers (FCC). This action would require replacement of the currently required revision to the AFM with a newly worded revision that explains the effect the modification of the FCC's has on the operation and performance of the autopilot and that clarifies the limitation for unmodified airplanes. This proposal is prompted by the results of an FAA review of the requirements of the existing AD. The actions specified by the proposed AD are intended to prevent an out-of-trim condition between the trimmable horizontal stabilizer and the elevator, which could severely reduce controllability of the airplane.

DATES: Comments must be received by November 20, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–137–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Flight Test and Systems Branch, ANM–111, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2315; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–137–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–137–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On October 7, 1994, the FAA issued AD 94–21–07, amendment 39–9049 (59 FR 52414, October 18, 1994), applicable to all Airbus Model A310 and A300–600 series airplanes. That AD requires a revision to the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) that warns the flight crew that overriding the autopilot while it is in the COMMAND mode could result in a severe out-of-trim condition, and that overriding the autopilot while it is in the pitch axis will not cancel the autotrim while it is in the ''land'' or ''go-around'' configuration. That AD also requires modification of certain flight control computers (FCC) so that the autopilot will disengage whenever the airplane is in the ''go-around'' mode above a certain airplane altitude. That action was prompted by an accident in which the flight crew may have attempted to override the autopilot while it was engaged in the COMMAND mode, which may have resulted in an out-of-trim condition between the trimmable horizontal stabilizer and the elevator. The requirements of that AD are intended to prevent this out-of-trim condition, which could result in severely reduced controllability of the airplane.

Since the issuance of that AD, the FAA has conducted a review of the requirements of that AD, including the language contained in the required AFM limitation. The FAA finds that for airplanes on which modification of the FCC's has been accomplished, in accordance with the requirements of the existing AD, the language contained in the AFM limitation does not accurately reflect the operation and performance of the autopilot. Therefore, the FAA has determined that the language in the AFM limitation must be revised to state more clearly the effects the modification has on the operation and performance of the autopilot when the pilot attempts to override the autopilot by exerting a certain amount of manual force on the control column. Furthermore, the FAA finds that language contained in the AFM limitation required by that AD could be stated more clearly for airplanes on which modification of the FCC's has not been accomplished.

The FAA has determined that these changes to the language of the AFM

limitation are necessary to ensure that the flight crew is appropriately advised of (1) the potential hazard associated with overriding the autopilot under certain circumstances and with certain configurations of the FCC, and (2) the procedures necessary to address it.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. The FAA has reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 94–21–07 to continue to require modification of certain FCC's. This action also requires replacement of the currently required revision to the Limitations Section of the FAA-approved AFM with a revised limitation. This revised limitation warns the flight crew that overriding the autopilot while it is in the COMMAND mode could result in a severe out-of-trim condition, and that overriding the autopilot while it is in the pitch axis will not cancel the autotrim while it is in the ''land'' or ''go-around'' configuration.

This action also revises the language contained in the AFM limitation for airplanes on which the modification of the FCC's has been accomplished. It also clarifies the language contained in the AFM limitation for airplanes on which the modification of the FCC's has not been accomplished.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 15 Model A310 series airplanes and 36 Model A300–600 series airplanes of U.S. registry would be affected by this proposed AD.

The modification that is currently required by AD 94–21–07 and retained in this proposal takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operator. Based on these figures, the total cost impact on U.S. operators of the actions currently required is estimated to be $3,060, or $60 per airplane.

The newly revised AFM limitation that is proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be nominal in cost. Based on these figures, the total cost impact on U.S. operators of the proposed requirements of this AD is estimated to be $3,060, or $60 per airplane.

The total cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9049 (59 FR 52414, October 18, 1994), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 95–NM–137–AD. Supersedes AD 94–21–07, Amendment 39–9049.

Applicability: All Model A310 and A300–600 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent an out-of-trim condition between the trimmable horizontal stabilizer and the elevator, which may severely reduce controllability of the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the information contained in paragraph (a)(1) or (a)(2) of this AD, as applicable. This may be accomplished by inserting a copy of this AD in the AFM. The AFM limitation required by AD 94–21–07, amendment 39–9049, may be removed

following accomplishment of the requirements of this paragraph.

(1) For airplanes on which the flight control computers (FCC) have not been modified in accordance with the requirements of paragraph (b) of this AD:

''Overriding the autopilot (AP) in pitch axis does not cancel the AP autotrim when LAND TRACK mode [green LAND on both Flight Mode Annunciators (FMA)] or GO-AROUND mode is engaged. In these modes, if the pilot counteracts the AP, the autotrim will trim against pilot input. This could lead to a severe out-of-trim situation in a critical phase of flight.''

(2) For airplanes on which the FCC's have been modified in accordance with requirements of paragraph (b) of this AD.

''Overriding the autopilot (AP) in pitch axis does not cancel the AP autotrim when LAND TRACK mode (green LAND on both FMA's) is engaged, or GO-AROUND mode is engaged below 400 feet radio altitude (RA). In these modes, if the pilot counteracts the AP, the autotrim will trim against pilot input. This could lead to a severe out-of-trim situation in a critical phase of flight.''

(b) For airplanes equipped with FCC's having either part number (P/N) B470ABM1 (for Model A310 series airplanes) or B470AAM1 (for Model A300–600 series airplanes): Within 60 days after November 2, 1994 (the effective date of AD 94–21–07, amendment 39–9049), modify the FCC's in accordance with Airbus Service Bulletin A310–22–2036, dated December 14, 1993 (for Model A310 series airplanes), or Airbus Service Bulletin A300–22–6021, Revision 1, dated December 24, 1993 (for Model A300–600 series airplanes), as applicable.

Note 2: Paragraph (b) of this AD merely restates the requirements of paragraph (b) of AD 94–21–07, amendment 39–9049. As allowed by the phrase, ''unless accomplished previously,'' specified in the compliance statement of this AD, if those requirements of AD 94–24–07 have already been accomplished, this AD does not require that those actions be repeated.

(c) As of November 2, 1994 (the effective date of AD 94–21–07, amendment 39–9049), no person shall install an FCC having either P/N B470ABM1 or B470AAM1 on any airplane.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 4, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–25161 Filed 10–10–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM95–8–000]

Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Notice of Potential Broadcast of Technical Conferences

October 4, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Potential Broadcast of Technical Conferences.

SUMMARY: The Federal Energy Regulatory Commission is notifying persons interested in the Commission's technical conferences in the captioned proceeding of the opportunity, for a fee, to receive the broadcast of the conferences. This notice provides interested persons with the necessary information by which they may seek to receive the broadcast of the conferences.

DATES: Persons interested in the broadcast of the conferences must notify Julia Morelli or Shirley Al-Jarani at the Capitol Connection (703–993–3100) by October 12, 1995.

FOR FURTHER INFORMATION CONTACT:

Richard Armstrong, Office of Electric Power Regulation, 825 North Capitol St., N.E., Washington, D.C. 20426, (202) 208–0241, (fax) (202) 208–0180

Lawrence Anderson, Office of Electric Power Regulation, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 208–0575, (fax) (202) 208–0180

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, at 941 North Capitol Street, N.E., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (800) 856–3920. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this document will be available on CIPS in ASCII and WordPerfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, N.E., Washington, D.C. 20426.

Please take notice that, for a fee, the Capitol Connection may broadcast technical conferences in this proceeding to interested persons. These technical conferences are: [1] (a) October 26, 1995—Commission technical conference on ancillary services; (b) October 27, 1995—staff conference on *pro forma* tariffs; (c) December 5 and 6, 1995—Commission technical conference on comparability for power pools. Persons interested in receiving such broadcasts should contact Julia Morelli or Shirley Al-Jarani at the Capitol Connection (703–993–3100) no later than October 12, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25170 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD–FRL–5313–4]

RIN 2060–AC06

National Ambient Air Quality Standards for Nitrogen Dioxide: Proposed Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed decision.

SUMMARY: The level for both the existing primary and secondary national ambient air quality standards (NAAQS) for nitrogen dioxide (NO_2) is 0.053 parts per million (ppm) (100 micrograms per meter cubed ($\mu g/m^3$)) annual arithmetic average. In accordance with the provisions of sections 108 and 109 of the Clean Air Act (Act), as amended, the EPA has conducted a review of the criteria upon which the existing NAAQS for NO_2 are based. The revised

[1] The time and place of the technical conferences was provided in an earlier notice, issued August 17, 1995. 60 FR 43997 (August 24, 1995).

criteria are being published simultaneously with the issuance of this proposed decision. After evaluating the revised health and welfare criteria, under section 109(d)(1) of the Act, the Administrator has determined that it is not appropriate to propose any revisions to the primary and secondary NAAQS for NO_2 at this time.

DATES: *Comments.* Written comments on this proposal must be received on or before January 9, 1996.

Public Hearing. Persons wishing to present oral testimony pertaining to this proposal should contact EPA at the address below by October 26, 1995. If anyone contacts EPA requesting to speak at a public hearing, a separate notice will be published announcing the date, time, and place where the hearing will be held.

ADDRESSES: Comments on this proposed action should be sent in duplicate to: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), Room M–1500, 401 M Street, SW, Washington, DC 20460, ATTN: Docket No. A–93–06. The docket, which contains materials relevant to this proposed decision, is available for public inspection and copying (a reasonable fee may be charged) weekdays between 8:00 a.m. and 5:30 p.m. in the Central Docket Section (CDS) of EPA, South Conference Center, Room M–1500, telephone (202) 260–7548.

Public Hearing. Persons wishing to present oral testimony pertaining to this proposal should notify Ms. Chebryll C. Edwards, U.S. Environmental Protection Agency, Office of Air Quality Planning Standards, Air Quality Strategies and Standards Division, Health Effects and Standards Group (MD–15), Research Triangle Park, NC 27711, telephone number (919) 541–5428.

FOR FURTHER INFORMATION CONTACT: Ms. Chebryll C. Edwards, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division (MD–15), Research Triangle Park, NC 27711, telephone (919) 541–5428.

SUPPLEMENTARY INFORMATION:

Availability of Related Information. The revised criteria document, ''Air Quality Criteria for Oxides of Nitrogen'' (three volumes, EPA–600/8–91/049aF–cF, August 1993: Volume I, NTIS #PB95124533, $52.00; Volume II, NTIS #PB124525, $77.00; Volume III, NTIS #PB95124517, $77.00), and the final revised OAQPS Staff Paper, ''Review of the National Ambient Air Quality Standards for Nitrogen Oxides: Assessment of Scientific and Technical Information,'' (EPA–452/R–95–005, September 1995) are available from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or call 1–800–553–6847 (a handling charge will be added to each order). Other documents generated in connection with this standard review, such as air quality analyses and relevant scientific literature, are available in the EPA docket identified above.

The contents of this action are listed in the following outline:

I. Background

A. Legislative Requirements

1. The Standards

Two sections of the Act govern the establishment and revision of NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify pollutants which ''may reasonably be anticipated to endanger public health and welfare'' and to issue air quality criteria for them. These air quality criteria are to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air * * *.''

Section 109 (42 U.S.C. 7409) directs the Administrator to propose and promulgate ''primary'' and ''secondary'' NAAQS for pollutants identified under section 108. Section 109(b)(1) defines a primary standard as one ''the attainment and maintenance of which, in the judgment of the Administrator, based on the criteria and allowing an adequate margin of safety, (is) requisite to protect the public health.'' A secondary standard, as defined in section 109(b)(2), must ''specify a level of air quality the attainment and maintenance of which, in the judgment of the Administrator, based on (the) criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of (the) pollutant in the ambient air.'' Welfare effects as defined in section 302(h) (42 U.S.C. 7602(h)) include, but are not limited to, ''effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

The U.S. Court of Appeals for the District of Columbia Circuit has held that the requirement for an adequate margin of safety for primary standards was intended to address uncertainties associated with inconclusive scientific and technical information available at the time of standard setting. It was also intended to provide a reasonable degree of protection against hazards that research has not yet identified (*Lead Industries Association* v. *EPA,* 647 F.2d 1130, 1154 (D.C. Cir. 1980), *cert. denied,* 101 S. Ct. 621 (1980); *American Petroleum Institute* v. *Costle,* 665 F.2d 1176, 1177 (D.C. Cir. 1981), *cert. denied,* 102 S. Ct. 1737 (1982)). Both kinds of uncertainties are components of the risk associated with pollution at levels below those at which human health effects can be said to occur with reasonable scientific certainty. Thus, by selecting primary standards that provide an adequate margin of safety, the Administrator is seeking not only to prevent pollution levels that have been demonstrated to be harmful but also to prevent lower pollutant levels that may pose an unacceptable risk of harm, even if the risk is not precisely identified as to nature or degree.

In selecting a margin of safety, the EPA considers such factors as the nature and severity of the health effects involved, the size of the sensitive population(s) at risk, and the kind and degree of the uncertainties that must be addressed. Given that the ''margin of safety'' requirement by definition only

comes into play where no conclusive showing of adverse effects exists, such factors, which involve unknown or only partially quantified risks, have their inherent limits as guides to action. The selection of any numerical value to provide an adequate margin of safety is a policy choice left specifically to the Administrator's judgment (*Lead Industries Association* v. *EPA, supra,* 647 F.2d at 1161–62).

Section 109(d)(1) of the Act requires that ''not later than December 31, 1980, and at 5-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 108 and the national ambient air quality standards * * * and shall make such revisions in such criteria and standards * * * as may be appropriate * * *.'' Section 109(d)(2) (A) and (B) requires that a scientific review committee be appointed and provides that the committee ''shall complete a review of the criteria * * * and the national primary and secondary ambient air quality standards * * * and shall recommend to the Administrator any * * * revisions of existing criteria and standards as may be appropriate * * *.''

The process by which the EPA has reviewed the existing air quality criteria and standards for NO_2 under section 109(d) is described later in this notice.

2. Related Control Requirements

States are primarily responsible for ensuring attainment and maintenance of ambient air quality standards. Under title I of the Act (42 U.S.C. 7410), States are to submit, for EPA approval, State implementation plans (SIP's) that provide for the attainment and maintenance of such standards through control programs directed to sources of the pollutants involved. The States, in conjunction with the EPA, also administer the prevention of significant deterioration program (42 U.S.C. 7470–7479) for these pollutants. In addition, Federal programs provide for nationwide reductions in emissions of these and other air pollutants through the Federal Motor Vehicle Control Program under title II of the Act (42 U.S.C. 7521–7574), which involves controls for automobile, truck, bus, motorcycle, and aircraft emissions; the new source performance standards under section 111 (42 U.S.C. 7411); and the national emission standards for hazardous air pollutants under section 112 (42 U.S.C. 7412).

B. Existing Standards for Nitrogen Dioxide

The principal focus of this standard review is the health and welfare effects associated with exposure to NO_2 and other oxides of nitrogen. Nitrogen dioxide is a brownish, highly reactive gas which is formed in the ambient air through the oxidation of nitric oxide (NO). Nitrogen oxides (NO_X), the term used to describe the sum of NO and NO_2, play a major role in the formation of ozone in the atmosphere through a complex series of reactions with volatile organic compounds. A variety of NO_X compounds and their transformation products occur both naturally and as a result of human activities. Anthropogenic (i.e., man-made) sources of NO_X emissions account for a large majority of all nitrogen inputs to the environment. The major sources of anthropogenic NO_X emissions are mobile sources and electric utilities. Ammonia and other nitrogen compounds produced naturally do play a role in the cycling of nitrogen through the ecosystem.

At elevated concentrations, NO_2 can adversely affect human health, vegetation, materials, and visibility. Nitrogen oxide compounds also contribute to increased rates of acidic deposition. Typical peak annual average ambient concentrations of NO_2 range from 0.007 to 0.061 ppm (''Air Quality Criteria for Oxides of Nitrogen,'' (Criteria Document or CD), U.S. EPA, 1993, p. 7–10). The highest hourly NO_2 average concentrations range from 0.04 to 0.54 ppm (CD, 1993, p. 7–10). Currently, all areas of the U.S., including Los Angeles (which is the only area to record violations in the last decade), are in attainment of the annual NO_2 NAAQS of 0.053 ppm. The origins, concentrations, and effects of NO_2 are discussed in detail in the ''Review of National Ambient Air Quality Standards for Nitrogen Dioxide: Assessment of Scientific and Technical Information,'' (Staff Paper or SP) (SP, U.S. EPA, 1995) and in the revised Criteria Document (CD, 1993).

On April 30, 1971, under section 109 of the Act, EPA promulgated identical primary and secondary NAAQS for NO_2 at 0.053 ppm annual average (36 FR 8186). The scientific and medical bases for these standards are contained in the original criteria document, ''Air Quality Criteria for Nitrogen Oxides,'' (CD, 1971).

On December 12, 1978 (43 FR 58117), the EPA announced the first review and update of the 1971 NO_2 criteria in accordance with section 109(d)(1) of the Act as amended. In preparing the Air Quality Criteria Document, the EPA provided a number of opportunities for external review and comment. The Clean Air Scientific Advisory Committee (CASAC) of the EPA Science Advisory Board held meetings in 1979 and 1980 before providing written closure on the revised criteria document in June 1981 (Friedlander, 1981). This process resulted in the production of the revised 1982 document, ''Air Quality Criteria for Oxides of Nitrogen'' (U.S. EPA, 1982a).

A staff paper, which identified critical issues and summarized staff interpretation of key studies, received verbal closure at a CASAC meeting in November 1981 and formal written closure in July 1982 (Friedlander, 1982). In the Staff Paper (U.S. EPA, 1982), staff recommended that the Administrator select an annual standard ''at some level between 0.05 ppm and 0.08 ppm.'' Based on the analysis of the criteria, staff concluded that choosing an annual standard within this range would ''provide a reasonable level of protection against potential short-term peaks.''

On February 23, 1984, the EPA proposed to retain both the annual primary and secondary standards at 0.053 ppm annual average and to defer action on the possible need for a separate short-term primary standard until further research on health effects of acute exposures to NO_2 could be conducted (49 FR 6866). The CASAC met to consider the Agency's proposal on July 19–20, 1984. In an October 18, 1984 closure letter based on weight of evidence, CASAC concurred with the Agency's recommendation to retain the annual average primary and secondary standards at 0.053 ppm (Lippmann, 1984). The CASAC further concluded that, ''while short-term effects from nitrogen dioxide are documented in the scientific literature, the available information was insufficient to provide an adequate scientific basis for establishing any specific short-term standard * * *.'' After taking into account public comments, the final decision to retain the NAAQS for NO_2 was published by EPA in the **Federal Register** on June 19, 1985 (50 FR 25532).

C. Review of Air Quality Criteria and Standards for Oxides of Nitrogen

On July 22, 1987, in response to requirements of section 109(d) of the Act, the EPA announced that it was undertaking plans to revise the 1982 Air Quality Criteria Document for Oxides of Nitrogen (52 FR 27580). The EPA held public workshops in July 1990 to evaluate the scientific data being considered for integration into the CD.

In November 1991, the EPA released the revised CD for public review and comment (56 FR 59285).

The revised CD provides a comprehensive assessment of the available scientific and technical information on health and welfare effects associated with NO_2 and NO_X. The CASAC reviewed the CD at a meeting held on July 1, 1993 and concluded in a closure letter to the Administrator that the CD ''* * * provides a scientifically balanced and defensible summary of current knowledge of the effects of this pollutant and provides an adequate basis for EPA to make a decision as to the appropriate NAAQS for NO_2'' (Wolff, 1993).

In the summer of 1995, the Office of Air Quality Planning and Standards (OAQPS) finalized the document entitled, ''Review of the National Ambient Air Quality Standards for Nitrogen Dioxide: Assessment of Scientific and Technical Information,'' (SP, U.S. EPA, 1995). The Staff Paper summarizes and integrates the key studies and scientific evidence contained in the revised CD and identifies the critical elements to be considered in the review of the NO_2 NAAQS.

The Staff Paper received external review at a December 12, 1994 CASAC meeting. The CASAC comments and recommendations were reviewed by EPA staff and incorporated into the final draft of the Staff Paper as appropriate. The CASAC reviewed the final draft of the Staff Paper in June 1995 and responded by written closure letter (see docket A–93–06).

D. Decision Docket

In 1993, the EPA created a docket (Docket No. A–93–06) for this proposed decision. This docket incorporates by reference a separate docket established for the criteria document revision (Docket No. ECAO–CD–86–082).

E. Litigation

On July 21, 1993, the Oregon Natural Resources Council and Jan Nelson filed suit under section 304 of the Act to compel the EPA to complete its periodic review of the criteria and standards for NO_2 under section 109(d)(1) of the Act (*Oregon Natural Resources Council* v. *Carol M. Browner,* No. 91–6529–HO (D.Or.)). The plaintiffs and the EPA agreed to a consent decree establishing a schedule for review of the NO_2 NAAQS, which was subsequently modified pursuant to a further agreement between the parties. The U.S. District Court for the District of Oregon entered an order on February 8, 1995 requiring the EPA Administrator to publish a **Federal Register** notice announcing her decision on whether or not to propose any modification of the NAAQS for NO_2 by October 2, 1995. The order also requires the Administrator to sign a notice to be published in the **Federal Register** announcing the final decision whether or not to modify the NO_2 NAAQS by October 1, 1996.

II. Rationale for Proposed Decision

A. The Primary Standard

1. Basis for the Existing Standard

The current primary NAAQS for NO_2 is 0.053 ppm (100 $\mu g/m^3$), averaged over 1 year. In selecting the level for the current standard, the Administrator made judgments regarding the lowest reported effect levels, sensitive populations, nature and severity of health effects, and margin of safety. After assessing the evidence, the Administrator concluded that the annual standard of 0.053 ppm adequately protected against adverse health effects associated with long-term exposures and provided some measure of protection against possible short-term health effects. The June 19, 1985 **Federal Register** notice (50 FR 25532) provides a detailed discussion of the bases for the existing standard.

2. Proposed Decision on the Primary Standard

The Administrator has determined that it is not appropriate to propose any revisions of the existing NO_2 primary standard at this time. In reaching this proposed decision, the Administrator has carefully considered the health effects information contained in the 1993 CD, the 1995 Staff Paper, and the advice and recommendations of the CASAC as presented both in discussion of these documents at public meetings and in its 1995 closure letter (see docket A–93–06).

The EPA staff identified several factors that the Administrator should consider in reaching a decision on whether or not to revise the current primary standard to protect against exposures to NO_2. These factors include: the sensitive populations affected by nitrogen dioxides, the nature and severity of the health effects, and the protection afforded by the current standards.

a. *Sensitive Populations Affected.* Two general groups in the population may be more susceptible to the effects of NO_2 exposure than other individuals. These groups include persons with pre-existing respiratory disease and children 5 to 12 years old (SP, 1995, p. 39). Individuals in these groups appear to be affected by lower levels of NO_2 than individuals in the rest of the population.

Both the 1993 CD and the 1995 Staff Paper support the hypothesis that those with pre-existing respiratory disease have an enhanced susceptibility from exposure to NO_2. Since these individuals live with reduced ventilatory reserves, any reductions in pulmonary function caused by exposure to NO_2 have the potential to further compromise their ventilatory capacity. Compared to healthy individuals with normal ventilatory reserves who may not notice small reductions in lung function, those with pre-existing respiratory disease may be prevented from continuing normal activity following exposure to NO_2.

Asthmatic individuals are considered one of the subpopulations most responsive to NO_2 exposure (CD, 1993, p. 16–1). The National Institutes of Health (1991) estimates that approximately 10 million asthmatics live in the U.S. Because asthmatics tend to be much more sensitive to inhaled bronchoconstrictors than nonasthmatics, there is the added concern that NO_2-induced increase in airway response may exacerbate already existing hyperresponsiveness caused by pre-exposure to other inhaled materials.

Patients with chronic obstructive pulmonary disease (COPD) constitute another subpopulation which is more responsive to NO_2 exposure than the average population. This group, which is estimated to be 14 million in the U.S. (U.S. Department of Health and Human Services, 1990), includes persons with emphysema and chronic bronchitis. One of the major concerns for COPD patients is that they do not have an adequate ventilatory reserve and, therefore, would tend to be more affected by any additional loss of ventilatory function as may result from exposure to NO_2. The available data also indicate that NO_2 might further damage already impaired host defense mechanisms, thus putting COPD patients at increased risk for lung infection.

Numerous epidemiological studies conducted in homes with gas stoves provide evidence that children (5–12 years old) are at increased risk of respiratory symptoms/illness from exposure to elevated NO_2 levels (Melia *et al.,* 1977, 1979, 1983; Ekwo *et al.,* 1983; Ware *et al.,* 1984; Ogston *et al.,* 1985; Dockery *et al.,* 1989a; Neas *et al.,* 1990, 1991, 1992; Dijkstra *et al.,* 1990; Brunekreef *et al.,* 1989; Samet *et al.,* 1993). Because childhood respiratory illness is very common (Samet *et al.,* 1983; Samet and Utell, 1990), any impact which NO_2 might have in

increasing the probability of respiratory illness in children is a matter of public health concern. This is particularly true in light of evidence that recurrent childhood respiratory disease may be a risk factor for later susceptibility to lung damage (Glezen, 1989; Samet *et al.,* 1983; Gold *et al.,* 1989). In the U.S., there are approximately 35 million children in the age group 5 to 14 years (Centers for Disease Control, 1990).

b. *Health Effects of Concern.* Based on the health effects information contained in the 1993 CD (which evaluates key studies published through early 1993) and the 1995 Staff Paper, EPA has concluded that NO_2 is the only nitrogen oxide sufficiently widespread and commonly found in ambient air at high enough concentrations to be a matter of public health concern. Exposure to NO_2 is associated with a variety of acute and chronic health effects. The health effects of most concern at ambient or near-ambient concentrations of NO_2 include changes in airway responsiveness and pulmonary function in individuals with pre-existing respiratory illnesses and increases in respiratory illnesses in children (5–12 years old).

The changes in airway responsiveness and pulmonary function are mostly associated with short-term exposures (e.g., less than 3 hours). Investigations of long-term exposures of animals to NO_2 levels higher than those found in the ambient air provide evidence for possible underlying mechanisms of NO_2-induced respiratory illness such as those observed in the indoor epidemiological studies described below. Furthermore, animal studies have also provided evidence of emphysema caused by long-term exposures to greater than 8 ppm NO_2. The key evidence regarding these effects is summarized below.

(1) Increase in airway responsiveness. There is little, if any, convincing evidence that healthy individuals experience increases in airway responsiveness when exposed to NO_2 levels below 1.0 ppm. However, studies of asthmatics have reported some evidence of increased airway responsiveness caused by short-term exposures (e.g., less than 3 hours) to NO_2 at relatively low concentrations (mostly within the range of 0.2 to 0.3 ppm NO_2) which are of concern in the ambient environment.

Responsiveness of an individual's airways is typically measured by evaluating changes in airway resistance or spirometry following challenge with a pharmacologically-active chemical (e.g., histamine, methacholine, carbachol), which causes constriction of the airways. Airway hyperresponsiveness is reflected by an abnormal degree of airway narrowing caused primarily by airway smooth muscle shortening in response to nonspecific stimuli. Asthmatics experience airway hyperresponsiveness to certain chemical and physical stimuli and have been identified as one of the population subgroups which is most sensitive to short-term NO_2 exposure (CD, 1993, p. 16–1).

Several controlled human exposure studies (Ahmed *et al.,* 1983a,b; Bylin *et al.,* 1985; Hazucha *et al.,* 1982, 1983; Koenig *et al.,* 1985; Orehek *et al.,* 1981) of asthmatic individuals showed no significant effect on responsiveness at very low NO_2 concentrations of 0.1 to 0.12 ppm. Folinsbee (1992) analyzed data on asthmatics experimentally-exposed to NO_2 in various studies which used challenges producing increased airway responsiveness in 96 subjects and decreased airway responsiveness in 73 subjects. For exposures in the range of 0.2 to 0.3 ppm NO_2, he found that the excess increase in airway responsiveness was attributable to subjects exposed to NO_2 at rest. Because NO_2 at these levels does not appear to cause airway inflammation and the increased airway responsiveness appears fully reversible, implications of the observed increases in responsiveness remain unclear. It has been hypothesized that increased nonspecific airway responsiveness caused by NO_2 could lead to increased responses to a specific antigen; however, there is no plausible evidence to support this.

(2) Decrease in pulmonary function. Nitrogen dioxide induced pulmonary function changes in asthmatic individuals have been reported at low, but not high, NO_2 concentrations. For the most part, the small changes in pulmonary function that have been observed in asthmatic individuals have occurred at concentrations between 0.2 and 0.5 ppm, but not at much higher concentrations (i.e., up to 4 ppm) (CD, 1993, p. 16–3). In one early study of asthmatics, symptoms of respiratory discomfort were experienced by 4 of 13 asthmatics exposed to 0.5 ppm for 2 hours; however, Kerr *et al.* (1979) concluded that the symptoms were minimal and did not correlate well with functional changes. In several other studies of asthmatics, very small changes in spirometry or plethysmography were reported following acute exposures in the range of 0.1 (Hazucha *et al.,* 1982, 1983) to 0.6 ppm NO_2 (Avol *et al.,* 1988). Hazucha found an 8 percent increase in specific airway resistance (SR_{aw}) after mild asthmatics were exposed to 0.1 ppm NO_2 at rest. However, this finding is not considered statistically significant. Bauer *et al.,* (1986) reported statistically significant changes in spirometric response in mild asthmatics exposed for 20 minutes (with mouthpiece) to 0.3 ppm NO_2 and cold air. Avol *et al.* (1988) found significant changes in SRaw and 1-second forced expiratory volume (FEV_1) as a function of exposure concentration and duration for all exposure conditions (i.e., exposure of moderately exercising asthmatics for 2 hours to 0.3 ppm and 0.6 ppm NO_2); however, it was concluded that there was no significant effect of NO_2 exposure on these measures of pulmonary function (CD, 1993, p. 15–47). Exercising adolescent asthmatics exposed (with mouthpiece) to air, 0.12 ppm and 0.18 ppm NO_2, exhibited small changes in FEV_1, but there were no differences in symptoms between air and either of the NO_2 exposures (Koenig *et al.,* 1987a,b). The absence of spirometry or plethysmography changes in studies (Avol *et al.,* 1986; Bylin *et al.,* 1985; Linn *et al.,* 1985b; Linn *et al.,* 1986) conducted at higher NO_2 concentrations makes developing a concentration-response relationship problematic (CD, 1993, p. 15–62). In assessing the available data on pulmonary function responses to NO_2 in asthmatic individuals, the CD concludes that the most significant responses to NO_2 that have been observed in asthmatics have occurred at concentrations between 0.2 and 0.5 ppm (CD, 1993, p. 16–3).

Patients with COPD experience pulmonary function changes with brief exposure to high concentrations (5 to 8 ppm for 5 minutes) or with more prolonged exposure to lower concentrations (0.3 ppm for 3.75 hours).

(3) Increased occurrence of respiratory illness among children. Epidemiological evidence includes a meta-analysis of nine epidemiological studies of children (5–12 years old) living in homes with gas stoves. The meta-analysis reported that children (ages 5–12 years) living in homes with gas stoves have an increased risk of about 20 percent for developing respiratory symptoms and disease over children living in homes without gas stoves. This increase in risk corresponds to each increase of 0.015 ppm NO_2 in estimated 2-week average NO_2 exposure, where mean weekly concentrations in bedrooms reporting NO_2 levels were predominantly between 0.008 and 0.065 ppm NO_2 (CD, 1993, p. 14–73). A detailed discussion of the studies included in the meta-analysis can be found in the 1993 CD as well as in the 1995 Staff Paper.

In assessing the potential value of the meta-analysis in developing the basis for a NAAQS for NO_2, the Administrator is mindful of the limitations of the underlying studies. As discussed in the CD and Staff Paper, the gas stove studies do not provide sufficient exposure information, including human activity patterns, to establish whether the observed health effects are related primarily to peak, repeated peak, or lower, long-term, average exposures to NO_2. Furthermore, both the staff and CASAC concurred that, absent information on exposure patterns in the gas stove studies, it is not reasonable to extrapolate the results of these indoor studies to outdoor exposure regimes (SP, 1995). Indoor exposure patterns to NO_2 are quite different compared to outdoor exposure patterns. With potentially much higher peaks and average indoor exposures than would be found outdoors, it is extremely difficult to extrapolate the results of the meta-analysis in a manner which would provide quantitative estimates of health impacts for outdoor exposures to NO_2 (CD, 1993, p. 16–5).

(4) Biological Plausibility. Animal toxicology studies provide evidence for possible underlying mechanisms of NO_2-induced respiratory illness. These studies have shown that exposure to NO_2 can impair components of the respiratory host defense system and increase susceptibility to respiratory infection. The increased respiratory symptoms and illness in children reported in the epidemiology studies cited above may be a reflection of the increased susceptibility to respiratory infection caused by the impact of NO_2 on pulmonary defenses. Studies that provide a plausible biological basis for developing such a hypothesis and that highlight the potential effects associated with long-term exposures to NO_2 are discussed in detail in the 1993 CD and 1995 Staff Paper.

Although the pulmonary immune system has not been adequately studied to assess the impact of NO_2 exposure, there is some indication that NO_2 suppresses some systemic immune responses and that these responses may be both concentration and time dependent. In the ambient range of exposures, time may be a more important influence than concentration. However, there were no data showing clearly the effect of time on effects of long-term, low-level exposures representing ambient exposure levels.

In the urban air, the typical pattern of NO_2 is a low-level baseline exposure on which peaks are superimposed. When the relationship of the peak to baseline exposure and of enhanced susceptibility to bacterial infection was investigated, the results indicated that no simplistic concentration times time relationship was present, and that peaks had a major influence on the outcome (Gardner, 1980; Gardner *et al.*, 1982; Graham *et al.*, 1987). Several other animal infectivity studies (Miller *et al.* 1987; Gardner *et al.*, 1982; Graham *et al.*, 1987) offered evidence which indicated that mice exposed to baseline plus short-term peaks were more susceptible to respiratory infection than either those exposed to control or background levels of NO_2. This research also indicated that the pattern of NO_2 exposure had a major influence on the response.

The weight of evidence provided by animal toxicology supports the contention that NO_2 impairs the ability of host defense mechanisms to protect against respiratory infection. Although some of the health endpoints may not be valid for humans (e.g., increased mortality), there are many shared mechanisms between animals and humans which support the hypothesis of association between NO_2 exposure and increases in respiratory symptoms and illness reported in the epidemiological studies.

Based on the information reviewed in the CD and the Staff Paper, it is clear that at sufficiently high concentrations of NO_2 (i.e., > 8 ppm) for long periods of exposure, NO_2 can cause morphologic lung lesions in animals that meet the criteria for a human model of emphysema (which requires the presence of alveolar wall destruction in addition to enlargement of the airspace distal to the terminal bronchiole). Although current information does not permit identification of the lowest NO_2 levels and exposure periods which might cause emphysema, it is apparent that levels required to induce emphysematous lung lesions in animals are far higher than any NO_2 levels which have been measured in the ambient air.

c. *Air Quality Considerations.* One of the factors the Administrator considered in reaching this proposed decision is the relationship between short-term exceedances of NO_2 concentrations and the annual NO_2 mean. In 1994, McCurdy analyzed air quality data from the period 1988–1992 to determine the estimated number of exceedances of various NO_2 short-term air quality indicators which would occur given attainment of a range of annual averages. The annual averages McCurdy analyzed ranged from 0.02 to 0.06 ppm and included the current NO_2 NAAQS of 0.053 ppm. The 1-hour and daily concentration levels chosen for analyses were 0.15, 0.20, 0.25, and 0.30 ppm. The results of this analysis are reported in ''Analysis of High 1 Hr NO_2 Values and Associated Annual Averages Using 1988–1992 Data'' (McCurdy, 1994). In his report, McCurdy concluded that areas attaining the current annual NO_2 NAAQS reported few, if any, 1 hour or daily exceedances above 0.15 ppm.

Los Angeles is the only city in the U.S. to record violations of the annual average NO_2 NAAQS during the past decade. However, in 1992, Los Angeles reported air quality measurements which meet the NO_2 NAAQS for the first time. Thus, currently, the entire U.S. is in attainment of the current NO_2 NAAQS.

d. *Proposed Decision on the Primary Standard.* Based on the assessment of the health and air quality information presented in the CD and Staff Paper and discussed above, and taking into account the advice and recommendations of EPA staff and CASAC, the Administrator has determined pursuant to section 109(d)(1) of the Act, as amended, that it is not appropriate to propose any revision of the existing annual primary standard for NO_2 at this time.

In reaching this proposed decision, the Administrator took into account that the existing standard level is well below those levels associated with chronic effects observed in animal studies. The current standard also provides substantial protection against those short-term peak NO_2 concentrations at which clinical studies found statistically-significant changes in pulmonary function or airway responsiveness. As part of the review of the primary standard, the Administrator also considered whether a new short-term standard for NO_2 would be appropriate. Based on the available air quality data, the Administrator concluded that the existing annual standard provides adequate protection against potential changes in pulmonary function or airway responsiveness (which most experts would characterize as mild responses occurring in the range of 0.2 to 0.5 ppm NO_2). The adequacy of the existing annual standard to protect against potential pulmonary effects is further supported by the absence of documented effects in some studies at higher (3 to 4 ppm NO_2) concentrations (SP, 1995, p. 43).

In reviewing the scientific bases for an annual standard, the Administrator finds that the evidence showing the most serious health effects associated with long-term exposures (e.g., emphysematous-like alterations in the lung and increased susceptibility to infection) comes from animal studies conducted at concentrations well above

those permitted in the ambient air by the current standard. While recognizing there is no satisfactory method for quantitatively extrapolating exposure-response results from these animal studies directly to humans, the Administrator is concerned that there is some risk to human health from long-term exposure to elevated NO_2 levels given the potential seriousness of the effects in animals.

Other evidence suggesting health effects related to long-term, low-level exposures, such as the epidemiological studies integrated into the meta-analysis, provides some qualitative support for concluding that there is a relationship between long-term human exposure to near-ambient levels of NO_2 and adverse health effects. However, the various limitations in these studies preclude derivation of quantitative dose-response relationships for the ambient environment. The Administrator is mindful that there remains substantial uncertainty about the actual exposures of subjects in the studies that make up the meta-analysis. The NO_2 levels which were monitored in the gas-stove studies are only estimates of exposure and do not represent actual exposures. Because the studies collected 2-week average NO_2 measurements, one cannot distinguish between relative contributions to respiratory symptoms and illness of peak, repeated peak and long-term average exposure to NO_2. In addition, indoor exposure patterns to NO_2 are quite different compared to outdoor exposure patterns. With potentially much higher peaks and average indoor exposures than would be found outdoors, it is extremely difficult to extrapolate the results of the meta-analysis in a manner which would provide quantitative estimates of health impacts for outdoor exposures to NO_2 (CD, 1993, p. 16–5). Given these limitations, the Administrator concurs with the EPA staff and CASAC that neither the meta-analysis nor the underlying studies provide a quantitative basis for standard setting purposes. In her judgement, they do, however, provide qualitative support for the retention of the existing standard which provides protection against both peaks and long-term NO_2 exposures.

In reaching this proposed decision, the Administrator also took into account that the available air quality data indicate that if the existing standard of 0.053 ppm NO_2 is attained, the occurrence of 1-hour NO_2 values greater than 0.2 ppm would be unlikely in most areas of the country (McCurdy, 1994). The Administrator also considered that all areas of the U.S. are in attainment of the current NO_2 NAAQS.

After carefully assessing the available health effects and air quality information, it is the Administrator's judgment that a 0.053 ppm annual standard would keep annual NO_2 concentrations considerably below the long-term levels for which serious chronic effects have been observed in animals. Retaining the existing standard would also provide protection against short-term peak NO_2 concentrations at the levels associated with mild changes in pulmonary function and airway responsiveness observed in controlled human studies. In reaching this judgment, the Administrator fully considered the 1995 Staff Paper conclusions with respect to the primary standard and the views of the CASAC (Wolff, 1995). For the above reasons, the Administrator has determined, under section 109(d)(1) of the Act, as amended, that it is not appropriate to propose any revision of the existing primary standard for NO_2 of 0.053 ppm annual average at this time.

B. The Secondary Standard

Nitrogen dioxide and other nitrogen compounds have been associated with a wide range of effects on public welfare. The effects associated with nitrogen deposition include acidification and eutrophication of aquatic systems, potential changes in the composition and competition of some species of vegetation in wetland and terrestrial systems, and visibility impairment. The direct effects of NO_2 on vegetation and materials are also considered. The CD and Staff Paper discuss in detail the major effects categories of concern; the following discussion draws from these documents.

1. Direct Effects of Nitrogen Dioxides

a. *Vegetation.* Data evaluated in the 1993 CD indicate that single exposures to NO_2 for less than 24 hours can produce effects on the growth, development, or reproduction of plants at concentrations that greatly exceed the ambient levels of NO_2 observed in the U.S. In experiments of 2 weeks or more, with intermittent exposures of several hours per day, effects on growth or yield start to appear when the concentration of NO_2 reaches the range of 0.1 to 0.5 ppm, depending on the species of plant and conditions of exposure (CD, 1993, p. 9–89).

As reported in the 1993 CD (pp. 9–113 to 9–137), several studies have examined synergistic or additive effects of NO_2 and other air pollutants on plants. These studies report that NO_2 in combination with other pollutants (i.e., sulfur dioxide, ozone) can increase plant sensitivity, thus lowering concentration and time of exposure required to produce injury/growth effects. The pollutant concentrations used in these experimental studies were well above those observed in the ambient air and at frequency of co-occurrence that are not typically found in the U.S. (CD, 1993, p. 9–127).

b. *Materials.* Nitrogen oxides are known to enhance the fading of dyes; diminish the strength of fabrics, plastics, and rubber products; assist the corrosion of metals; and reduce the use-life of electronic components, paints, and masonry. Compared to studies on sulfur oxides, however, there is only limited information available quantifying the effects of nitrogen oxides. While NO_2 has been qualitatively associated with materials damage, it is difficult to distinguish a single causative agent for observed damage to exposed materials because many agents, together with a number of environmental stresses, act on a surface throughout its life.

c. *Conclusions Concerning Direct Effects on Vegetation and Materials.* Based on the information assessed in the CD and Staff Paper and taking into account the advice and recommendations of EPA staff and CASAC, the Administrator has determined that the existing annual secondary standard appears to be both adequate and necessary to protect against the direct effects of NO_2 on vegetation and materials, and that it is not appropriate to propose any modifications of the secondary standard with respect to such effects. In reaching this proposed decision, the Administrator considered evidence indicating that attainment of the existing annual secondary standard provides substantial protection against both long-term and peak NO_2 concentrations which may lead to the direct effects described above.

d. *Other Related Effects of Nitrogen Dioxide.* While NO_2 can contribute to brown haze, the available scientific evidence indicates that light scattering by particles is generally the primary cause of degraded visual air quality and that aerosol optical effects alone can impart a reddish-brown color to a haze layer. Because of this, the improvement in visual air quality to be gained by reducing NO_2 concentrations is highly uncertain at best. In addition, as discussed in the 1995 Staff Paper, there is no established relationship between ground level NO_2 concentrations at a given point and visibility impairment due to a plume or regional haze. These considerations led both the EPA staff

and CASAC to conclude that establishment of a secondary NO_2 standard to protect visibility would not be appropriate. The Administrator concurs with those judgments.

While concluding that a secondary NO_2 standard is not appropriate to protect visibility, the Administrator is concerned about visibility impairment in our national parks and wilderness areas. To address visible plumes that impact the visual quality of Class I areas, EPA adopted regulations (under section 165(d) of the Act) in 1980. In addition, EPA is in the process of developing regional haze regulations under section 169A of the Act.

2. Nitrogen Deposition

As summarized below, the deposition of nitrogen compounds contributes to a wide range of environmental problems. As discussed in detail in the 1993 CD and 1995 Staff Paper, nitrogen compounds effect terrestrial, wetland, and aquatic ecosystems through direct deposition or by indirectly altering the complex biogeochemical nitrogen cycle. In assessing the available effects information evaluated in the CD and Staff Paper, the Administrator is mindful of the scientific complexity of nitrogen deposition issues and their broad implications for the environment.

Nitrogen moves through the biosphere via a complex series of biologically and non-biologically mediated transformations. The processes that make up the nitrogen cycle and transform nitrogen as it moves through an ecosystem include: assimilation, nitrification, denitrification, nitrogen fixation, and mineralization. Similar types of transformations can be found in diverse habitats, but the organisms responsible for the transformations and the rates of the transformations themselves can vary greatly.

Atmospheric deposition of nitrogen can disturb the nitrogen cycle and result in the acidification of soils, lakes, and streams. It can also lead to the eutrophication of sensitive estuarine ecosystems by changing vegetation composition and affecting nutrient balance. Because a great degree of diversity exists among ecosystem types, as well as in the mechanisms by which these systems assimilate nitrogen inputs, the time to nitrogen saturation (i.e., nitrogen input in excess of total combined plant and microbial nutritional demands) will vary from one system or site to another. As a consequence, the relationship between nitrogen deposition rates and their potential environmental impact is to a large degree site or regionally-specific and may vary considerably over broader geographical areas or from one system to another because of the amount, form, and timing of nitrogen deposition, forest type and status, soil types and status, the character of the receiving waterbodies, the history of land management and disturbances across the watersheds and regions, and exposure to other pollutants. Absent better quantification of these factors, it is difficult to link specific nitrogen deposition rates with observed environmental effects, particularly at the national level.

a. *Terrestrial/Wetland.* The principal effects on soils and vegetation associated with excess nitrogen inputs include: (1) Soil acidification and mobilization of aluminum, (2) increase in plant susceptibility to natural stresses, and (3) modification of inter-plant competition. Atmospheric deposition of nitrogen can accelerate the acidification of soils and increase aluminum mobilization if the total supply of nitrogen to the system (including deposition and internal supply) exceeds plant and microbial demand. However, the levels of nitrogen input necessary to produce measurable soil acidification are quite high. As reported in the Criteria Document (Tamm and Popovic, 1974; Van Miegroet and Cole, 1984), it is estimated that nitrogen inputs ranging from 50 to 3,900 kilograms per hectare (kg/ha) for 50 and 10 years respectively, would be required to affect a change in soil potential for hydrogen (pH) of 0.5 pH units. At present, nitrogen deposition has not been directly associated with the acidification of soils in the U.S. The potential exists, however, if additions are high enough for sufficiently long periods of time, particularly in areas where soils have low buffering capacity. Mobilization of aluminum can be toxic to plants and, if transported to waterways, can be toxic to various aquatic species (SP, 1995, pp. 64,65).

Several studies evaluated in the CD and Staff Paper examined the effects of nitrogen deposition on forest species sensitivity to drought, cold, or insect attack. While some studies (Margolis and Waring, 1986; De Temmerman et al., 1988; Waring and Pitman, 1985; White, 1984) report that increased nitrogen deposition can alter tree susceptibility to frost damage, insect and disease attack, and plant community structure, other studies (Klein and Perkins, 1987; Van Dijk et al., 1990) did not. For example, Margolis and Waring showed that fertilization of Douglas fir with nitrogen could lengthen the growing season to the point where frost damage became a problem. However, Klein and Perkins presented other evidence that showed no additional winter injury of high elevation conifer forests when fertilized with 40 kilogram total nitrogen/ha/year. On the other hand, De Temmerman et al. provided data showing increased fungal outbreaks and frost damage on several pine species exposed to very high ammonia deposition rates (> 350 kg/ha/year). Numbers of species and fruiting bodies of fungi have also increased concomitantly with nitrogen deposition in Dutch forests (Van Breeman and Van Dijk, 1988). The CD evaluated a number of other studies which also gave mixed results as to the impact of excessive inputs of nitrogen into forest ecosystems (CD, 1993, pp. 10–92,93).

Climate is thought to play a major role in the severe red spruce decline in the Northeastern U.S., perhaps with some additional exacerbation due to the direct effects of acid mist on foliage (Johnson *et al.*, 1992). There is also some evidence that suggests that indirect effects of nitrogen saturation, namely nitrate and aluminum leaching, may be contributing factors to red spruce decline in the Southern Appalachians (CD, 1993, p. 10–74).

In wetland ecosystems, primary biomass production is most commonly limited by the availability of nitrogen. Several fertilization studies have reported that nitrogen application can result in changes in species composition or dominance in wetland systems. Vermeer (1986) found that in fen and wet grassland communities, grasses tended to increase in dominance over other species. Jefferies and Perkins (1977) also found a species-specific change in stem density at a Norfolk, England, salt marsh after fertilizing monthly with 610 kg NO_3 nitrogen/ha/year or 680 kg NH_{4+} nitrogen/ha/year over a period of 3 to 4 years.

Long-term studies (greater than 3 years) of increased nitrogen loadings to wetland systems have reported that increases in primary production can result in changes in species composition and succession (U.S. EPA, 1993, pp. 10–120–121). Changes in species composition may occur from increased evapotranspiration (Howes et al., 1986; Logofet and Alexander, 1984) leading to a changed water regime that favors different species or from increased nutrient loss from the system through incorporation into or leaching from aboveground vegetation. In parts of Europe, historical data seem to implicate pollutant nitrogen in altering the competitive relationships among plants and threatening wetland species adapted to habitats of low fertility

(Tallis, 1964; Ferguson et al., 1984; Lee *et al.*, 1986).

Potential changes in species composition and succession in wetlands is of particular concern because wetlands are habitats to many rare and threatened plant species. Some of these plants have adapted to systems low in nitrogen or with low nutrient levels. For some species, these conditions can be normal for growth. Therefore, excess nitrogen deposition can alter these conditions and thus alter species density and diversity. In the contiguous U.S., wetlands harbor 14 percent (18 species) of the total number of plant species that are formally listed as endangered. Several species on this list, such as the insectivorous plants, are widely recognized to be adapted to nitrogen-poor environments. While changes in species composition and succession are of concern, such changes have not been associated with nitrogen deposition in the U.S.

b. *Aquatic.* Some aquatic systems are potentially at risk from atmospheric nitrogen additions through the processes of eutrophication and acidification. Both processes can sufficiently reduce water quality making it unfit as a habitat for most aquatic organisms and/or human consumption. Acidification of lakes from nitrogen deposition may also increase leaching and methylation of mercury in aquatic systems.

Atmospheric nitrogen can enter aquatic systems either as direct deposition to water surfaces or as nitrogen deposition to the watershed. In northern climates, nitrate may be temporarily stored in snow packs and released in a more concentrated form during snow melt. Nitrogen deposited to the watershed is then routed (e.g., through plant biomass and soil microorganisms) and transformed (e.g., into other inorganic or organic nitrogen species) by watershed processes, and may eventually run off into aquatic systems in forms that are only indirectly related to the original deposition. The contributions of direct and indirect atmospheric loadings have received increased attention. While the available evidence indicates that the impact of nitrogen deposition on sensitive aquatic systems can be significant, it is difficult to quantify the relationship between atmospheric deposition of nitrogen, its appearance in receiving waters, and observed effects.

(1) *Acidification.* In the U.S., the most comprehensive assessment of chronic acidification of lakes and streams comes from the National Surface Water Survey (NSWS) conducted as part of the National Acid Precipitation Assessment Program (NAPAP). A detailed discussion of the findings in the NSWS can be found in both the 1993 CD and the 1995 Staff Paper. The studies highlighted in these documents reported mixed observations as to the relative contribution of nitrogen compounds to chronic acidification in North American lakes. However, the National Stream Survey (NSS) data do suggest that the Catskills, Northern Appalachians, Valley and Ridge Province, and Southern Appalachians all show some potential for chronic acidification due to nitrate ions (NO_3). Two studies (Kaufmann *et al.*, 1991; Driscoll et al., 1989) have examined whether atmospheric deposition is the source of the NO_3 leaking out of these watersheds. Data from the NSS (Kaufmann *et al.*, 1991) suggest a strong correlation between concentrations of stream water and levels of wet nitrogen deposition in each of the NSS regions. Secondly, Driscoll et al. (1989) collected input/output budget data for a large number of watersheds in the U.S. and Canada and summarized the relationship between nitrogen export and nitrogen deposition at all the sites. Though the relationships discovered should not be over-interpreted or construed as an illustration of cause and effect, they do show that watersheds in many regions of North America are retaining less than 75 percent of the nitrogen that enters them, and that the amount of nitrogen being leaked from these watersheds is higher in areas where nitrogen deposition is highest.

On a chronic basis in the U.S., especially in the eastern part of the country, nitrogen deposition does play a role in surface water acidification. However, there are significant uncertainties with regard to the long-term role of nitrogen deposition in surface water acidity and with regard to the quantification of the magnitude and timing of the relationship between atmospheric deposition and the appearance of nitrogen in surface waters.

Episodic acidification in surface waters is a concern in the Northeast, Mid-Atlantic, Mid-Atlantic Coastal Plain, Southeast, Upper Midwest, and West regions (Wigington et al., 1990). In the Mid-Atlantic Coastal Plain and Southeast regions, all of the episodes reported to date have been associated with rainfall. In contrast, most of the episodes in the other regions are related to snowmelt, although rain-driven episodes apparently can occur in all regions of the country. It is important to stress that even within a given area, such as the Northeast, major differences can be evident in the occurrence, nature, location (lakes or streams), and timing of episodes at different sites. The 1995 Staff Paper provides a detailed description of the processes which may contribute to the timing and severity of acidic episodes.

Some broad geographic patterns in the frequency of episodes in the U.S. are now evident. Episodes driven by NO_3 are common in the Adirondacks and Catskill Mountains of New York, especially during snowmelt, and also occur in at least some streams in other portions of the Northeast (e.g., Hubbard Brook). Nitrate contributes on a smaller scale to episodes in Ontario and may play some role in episodic acidification in the Western U.S. There is little current evidence that NO_3 episodes are important in the acid-sensitive portions of the Southeastern U.S. outside the Great Smoky Mountains. There is no information on the relative contribution of NO_3 to episodes in many of the subregions covered by the NSS, including those that exhibited elevated NO_3 concentrations at spring base flow (e.g., the Appalachian Plateau, the Valley and Ridge Province and Mid-Atlantic Coastal Plain), because temporally-intensive studies have not been published for these areas.

While the available data suggest that NO_3 episodes are more severe now than they were in the past, it is important to emphasize that only the data reported for the Catskills can be considered truly long-term (up to 65 years of record). Data for the Adirondacks (Driscoll and Van Dreason, 1993) and other areas of the U.S. (Smith et al., 1987) span only 1 to 2 decades and should be interpreted with caution.

Because surface water nitrogen increases have occurred at a time when nitrogen deposition has been relatively unchanged in the Northeastern U.S. (Husar, 1986; Simpson and Olsen, 1990), it is suggestive that nitrogen saturation of watersheds is progressing and that current levels of nitrogen deposition are too high for the long-term stability of aquatic systems in the Adirondacks, the Catskills, and possibly elsewhere in the Northeast. It is important to note that this supposition is dependent on our acceptance of NO_3 episodes as evidence of nitrogen saturation. While there is some support for this, there are significant uncertainties with respect to the quantification of the linkage and the timing of the relationship between the atmospheric deposition of nitrogen and its episodic or chronic appearance in surface waters.

This relationship between deposition and effect becomes more complex because the capacity to retain nitrogen

differs from one watershed to another and from one region to another as watershed and regional features differ. The differing features that may contribute to these differences include, the amount, form and timing of nitrogen deposition, forest type and status (including soil type and status), the character of the receiving waterbodies, the history of land management and disturbances across watersheds and regions and exposure to other pollutants. For example, the Northeast, because of the presence of aggrading forests and deeper soils in comparison to those of the West, may be able to absorb higher rates of deposition without serious effects than areas of the mountainous West, where soils are thin in comparison and forests are often absent at the highest elevations (CD, p. 10–179). The data of Silsbee and Larson (1982) suggest strongly that forest maturation is also linked to the process of NO_3 leakage from Great Smoky Mountain watersheds.

In summary, the available data indicate that nitrogen contributes to episodic acidification of sensitive streams and lakes in the Northeast. The data also suggest that some watersheds of the Northeast and the mid-Appalachians may be nearing nitrogen saturation. If, and when, this occurs, nitrogen deposition will become a more direct cause of chronic surface water acidification. At present, however, it is difficult to establish quantitative relationships between nitrogen deposition and the appearance of nitrogen in receiving waters, given the uncertainties in determining time to nitrogen saturation for varying systems and sites. The complexity of the scientific issues involved led the CASAC to conclude that available scientific information assessed in the Criteria Document and Staff Paper did not provide an adequate basis for standard setting purposes at this time (see Wolff, 1995). In its review of the Acid Deposition Standard Feasibility Study: Report to Congress (U.S. EPA, 1995), the Acid Deposition Effects Subcommittee of the Ecological Processes and Effects Committee of the EPA's Science Advisory Board also concluded that there was not an adequate scientific basis for establishing an acidic deposition standard (see ''An SAB Report: Review of the Acid Deposition Standard Feasibility Study Report to Congress,'' U.S. EPA, 1995).

(2) *Eutrophication.* Eutrophication is the process by which aquatic systems are enriched with the nutrient(s) that are presently limiting for primary production in that system. Eutrophication may produce conditions of increased algal biomass and productivity, nuisance algal populations, and decreases in oxygen availability for heterotrophic organisms. Another effect of chronic eutrophication is increased algal biomass shading out ecologically-valuable estuarine seagrass beds. Eutrophy can lead to fish kills and the permanent loss of some sensitive species caused by suffocation or rarely because of some kind of toxic algal bloom. Though this process often occurs naturally over the long-term evolution of lakes, it can be significantly accelerated by the additional input of the limiting nutrients from anthropogenic sources. In order to establish a link between nitrogen deposition and the eutrophication of aquatic systems, one must first demonstrate that the increase in biomass within the system is limited by nitrogen availability, and second, that nitrogen deposition is a major source of nitrogen to the system.

In most freshwater systems, phosphorus, not nitrogen, is the limiting nutrient. Therefore, eutrophication by nitrogen inputs will only be a concern in lakes that are chronically nitrogen limited and have a substantial total phosphorous concentration. This condition is common only in lakes that have received excessive inputs of anthropogenic phosphorous, or in rare cases, have high concentrations of natural phosphorus. In the former case, the primary dysfunction of the lakes is an excess supply of phosphorous, and controlling nitrogen deposition would be an ineffective method of gaining water quality improvement. In the latter case, lakes with substantial total phosphorous concentrations would experience measurable increases in biomass from increases in nitrogen deposition.

In contrast to freshwater systems, the productivity of estuarine waters of the U.S. correlates more closely with supply rates of nitrogen than of other nutrients (Nixon and Pilson, 1983). Because estuaries and coastal waters receive substantial amounts of weathered material from terrestrial ecosystems and from exchange with sea water, acidification is not a concern. However, this same load of weathered material and anthropogenic inputs makes these same areas prone to the effects of eutrophication.

Considerable research has focused on whether estuarine and coastal ecosystems are limited by nitrogen, phosphorus, or some other factor. Numerous geochemical and experimental studies have suggested that nitrogen limitation is much more common in estuarine and coastal waters than in freshwater systems (CD, 1993, pp. 10–189 to 197). However, specific instances of phosphorus limitation (Smith, 1984) and of seasonal switching between nitrogen and phosphorus limitation (D'Elia *et al.,* 1986; McComb *et al.,* 1981) have been observed.

Estimation of the contribution of nitrogen deposition to the eutrophication of estuarine and coastal waters is made difficult by the multiple direct anthropogenic sources (e.g., from agriculture and sewage) of nitrogen. In the U.S., only a few systems have been studied with enough intensity to develop predictions about the contribution of atmospheric nitrogen to total nitrogen inputs. One example is the Chesapeake Bay, where a large effort has been made to establish the relative importance of different sources of nitrogen to the total nitrogen load entering the bay (e.g., D'Elia *et al.,* 1982; Smullen *et al.,* 1982; Fisher *et al.,* 1988a; Tyler, 1988). The signatories to the Chesapeake Bay Agreement (i.e., Maryland, Virginia, Pennsylvania, the District of Columbia, and EPA, through their Baywide Nutrient Reduction Strategy and individual tributary watershed nutrient reduction strategies) have committed to reduce nitrogen and phosphorus loadings to the bay by 40 percent (from 1985 baseline) by the year 2000.

Enhanced modeling is being used to better assess source responsibility for the transport and deposition of nitrogen from the 350,000 square miles Chesapeake Bay airshed. This enhanced modeling will assist EPA in deciding: (1) Whether to include reductions in atmospheric NO_X and resultant decreased loadings via atmospheric deposition in the reductions of total nitrogen loading necessary to achieve the planned 40 percent reduction goal by the year 2000, and (2) the role implementation of the Act will play in ensuring nitrogen loadings are capped at the 40 percent reduction goal beyond the year 2000 in the face of significant projected population increases within the Chesapeake Bay watershed (and surrounding airshed). This integration of modeling, watershed, and airshed management will serve as a case study and a prototype method for other geographic areas.

Though estimates for each individual source are very uncertain, studies undertaken to determine the proportion of the total NO_3 load to the bay, which was attributable to nitrogen deposition, produced estimates in the range of 18 to 39 percent. These estimates, which reflect the current status of the area, suggest that supplies of nitrogen from deposition exceed supplies from all

other non-point sources (i.e., farm runoff) to the bay and only point-source inputs (i.e., discharges to water, emissions from industrial facilities) represent a greater input than deposition.

Based on the available data, it is clear that atmospheric nitrogen inputs to estuarine and coastal ecosystems are of concern. The importance of atmospheric inputs will vary, however, from site to site and will depend on the availability of other growth nutrients, the flushing rate through the system, the sensitivity of resident species to added nitrogen, the types and chemical forms of nitrogen inputs from other sources, as well as other factors. Given these complexities, site-specific investigations, such as the Chesapeake Bay Study, are needed to ascertain the most effective mitigation strategy. Similar place-based studies are already under way in the Tampa Bay and other coastal areas.

3. Direct Toxic Effects of Ammonia Deposition to Aquatic Systems

Nitrogen deposition could potentially contribute directly to toxic effects in surface waters. High ammonia concentrations are associated with lesions in gill tissue, reduced growth rates of trout fry, reduced fecundity (number of eggs), increased egg mortality, and increased susceptibility of fish to other diseases, as well as a variety of pathological effects in invertebrates and aquatic plants. Given current maximal concentrations of ammonium ions (NH_{4+}) in wet deposition and reasonable maximum rates of dry deposition, even if all nitrogen species were ammonified, the maximum potential NH_{4+} concentrations attributable to deposition would be approximately 280 nmol/L and would be unlikely to be toxic except in unusual circumstances. Therefore, it appears that the potential for toxic effects directly attributable to nitrogen deposition in the U.S. is very limited. In addition, EPA has established water quality standards for ammonia to protect against these effects (50 FR 30784, July 29, 1984; also see guidance document EPA–440/5–85–001).

4. Proposed Decision on the Secondary Standard

As discussed above, after carefully considering the information on the direct effects of NO_2, the Administrator has determined that the existing annual secondary standard is both necessary and adequate to protect vegetation and materials from the direct effects of NO_2. The Administrator has also determined that establishment of a secondary NO_2 standard to protect visibility is not appropriate. In reaching these provisional conclusions, the Administrator has assessed the evidence provided in the CD and the Staff Paper as well as the advice and recommendations of the EPA staff and CASAC.

With respect to nitrogen deposition, the Administrator is concerned about the growing body of scientific information, assessed in the CD and Staff Paper and discussed above, that associates nitrogen deposition with a wide range of environmental effects. Of particular concern is the available data that indicate nitrogen deposition plays a significant role in the episodic acidification of certain sensitive streams and lakes and could cause long-term chronic acidification of such surface waters. The Administrator notes, as did CASAC, that because of the variations in the actual rate of nitrogen uptake, immobilization, denitrification, and leaching, it is very difficult, given current quantification of these processes, to link specific nitrogen deposition rates with observed environmental effects.

In considering the available data, the Administrator is also mindful, given the complex processes involved, that the time to nitrogen saturation will vary from one system to another. As a consequence, the relationship between nitrogen deposition rates and their potential environmental impact is to a large degree site- or regionally-specific and may vary considerably over broader geographical areas. These complexities led both the EPA and CASAC to conclude that there is currently insufficient information to set a national secondary NO_2 standard which would protect against the acidification effects of nitrogen deposition. Because of the site- and regional-specific nature of the problem, the staff also questioned whether adoption of a national secondary NO_2 standard would be an effective tool to address such effects.

In considering the staff's latter view, the Administrator also recognizes that Congress reserved judgment regarding the possible need for further action to control acid deposition beyond the provisions of title IV of the 1990 Amendments and what form any such action might take (Pub. L. 101–549, sec. 404, 104 Stat. 2399, 2632 (1990)). For a more complete discussion of the congressional deliberation on the acidic deposition issue, see 58 FR 21356–21357, April 21, 1993. Among other things, Congress directed EPA to conduct a study of the feasibility and effectiveness of an acid deposition standard(s), to report to Congress on the role that a deposition standard(s) might play in supplementing the acidic deposition program adopted in title IV, and to determine what measures would be needed to integrate it with that program. The resulting document entitled, ''Acid Deposition Standard Feasibility Study: Report to Congress'' (U.S. EPA, 1995), concluded, as did the CD and staff paper, that nitrogen deposition plays a significant role in the acidification of certain sensitive streams and lakes and that the time to nitrogen saturation varies significantly from one system or region to another. The complexities of watershed nitrogen dynamics (e.g., the biological processes) and the uncertainties in modeling results that project future effects of nitrogen deposition under alternative emission scenarios, however, led EPA staff (as well as the Acid Deposition Effects Subcommittee of the Ecological Processes and Effects Committee of the EPA's Science Advisory Board that reviewed the report) to conclude that current scientific uncertainties associated with determining the level(s) of an acid deposition standard(s) are significant (see ''An SAB Report: Review of the Acid Deposition Standard Feasibility Study Report to Congress,'' U.S. EPA, 1995). The study does not advocate setting an acid deposition standard at this time. The study does, however, set forth a range of regionally-specific goals to help guide the policy maker when assessing NO_X control strategies and their potential for reducing nitrogen deposition effects.

The Administrator has also examined the available information that indicates atmospheric nitrogen deposition can play a significant role in the eutrophication of estuarine and coastal waters. However, estimation of the contribution of nitrogen deposition to the eutrophication of estuarine and coastal waters is made difficult by multiple direct anthropogenic sources of nitrogen. Thus, the importance of atmospheric inputs will vary from site to site and will depend on the availability of other growth nutrients, the flushing rate through the system, the sensitivity of resident plant species to added nitrogen, as well as the types of chemical forms of nitrogen inputs from other sources. Given the complexities of these factors and the limited data currently available, the Administrator concurs with the EPA staff and CASAC conclusion that there is not sufficient quantitative information to establish a national secondary standard to protect sensitive ecosystems from the eutrophication effects caused by

nitrogen deposition. Rather, additional site-specific investigations (such as the Chesapeake Bay Study) are needed to ascertain the most effective mitigation strategies.

For the above reasons, the Administrator has determined pursuant to section 109(d)(1) of the Act, as amended, that it is not appropriate to propose any revision of the current secondary standard for NO_2 to protect against welfare effects at this time. As provided for under the Act, the EPA will continue to assess the scientific information on nitrogen-related effects as it emerges from ongoing research and will update the air quality criteria accordingly. These revised criteria should provide a more informed basis for reaching a decision on whether a revised NAAQS or other regulatory measures are needed in the future.

In the interim, the 1990 Clean Air Act Amendments (Pub. L. 101–549, 104 Stat. 2399 (1990)) require EPA to promulgate a number of control measures to reduce NO_X emissions from both mobile and stationary sources. These reductions are in addition to those required under title IV of the 1990 Amendments (Pub. L. 101–549, secs. 401–413, 104 Stat. 2399, 2584–2634 (1990)). Title IV, in conjunction with other titles of the Act, requires EPA to reduce nitrogen oxide emissions by approximately two million tons from 1980 emission levels. The reductions achieved through these EPA initiatives will provide additional protection against the potential acute and chronic effects associated with exposure to NO_X while EPA continues to generate and review additional information on the effects of oxides of nitrogen on public welfare and the environment. The EPA believes it is important to continue to recognize the benefit to the environment that can be achieved by further reducing NO_X emissions. Therefore, as part of this process, the EPA will integrate, to the extent appropriate, nitrogen deposition considerations when assessing new NO_X control strategies.

III. Miscellaneous

A. Executive Order 12866

Under Executive Order 12866, the Agency must determine whether a regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as one that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Although the EPA is not proposing any modification of the existing NO_2 NAAQS, the OMB has advised the EPA that this proposal should be construed as a ''significant regulatory action'' within the meaning of the Executive Order. Accordingly, this action was submitted to the OMB for review. Any changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) requires that all Federal agencies consider the impacts of final regulations on small entities, which are defined to be small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601 *et seq.*). These requirements are inapplicable to rules or other administrative actions for which the EPA is not required by the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, or other law to publish a notice of proposed rulemaking (5 U.S.C. 603(a), 604(a)). The EPA has elected to use notice and comment procedures in deciding whether to revise the NO_2 standards based on its assessment of the importance of the issues. Under section 307(d) of the Act, as the EPA interprets it, neither the APA nor the Act requires rulemaking procedures where the Agency decides to retain existing NAAQS without change. Accordingly, the EPA has determined that the impact assessment requirements of the RFA are inapplicable to the decision proposed in this notice.

C. Impact on Reporting Requirements

There are no reporting requirements directly associated with an ambient air quality standard promulgated under section 109 of the Act (42 U.S.C. 7400). There are, however, reporting requirements associated with related sections of the Act, particularly sections 107, 110, 160, and 317 (42 U.S.C. 7407, 7410, 7460, and 7617). This proposal will not result in any changes in these reporting requirements since it would retain the existing level and averaging times for both the primary and secondary standards.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed, under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

A decision by the Administrator pursuant to section 109(d) of the Act not to propose any revision of the existing national primary and secondary standards for NO_2 does not require rulemaking procedures, and EPA has elected to provide notice and an opportunity for comment concerning this proposed decision in view of the importance of the issues. If the Administrator makes a final decision not to modify the existing NAAQS for NO_2, this will not impose any new expenditures on governments or on the private sector, or establish any new regulatory requirements affecting small governments. Accordingly, the EPA has determined that the provisions of sections 202, 203, and 205 of the UMRA do not apply to this proposed decision.

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide,

Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: October 2, 1995.

Carol M. Browner,

Administrator.

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40 CFR Part 60

[AD-FRL–5308–9]

Standards of Performance for New Stationary Sources: Volatile Organic Compound Emissions From the Synthetic Organic Chemical Manufacturing Industry Wastewater

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice to proposed rule.

SUMMARY: Today's proposal clarifies the application of the proposed new source performance standards (NSPS) for volatile organic compound (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) wastewater sources to modifications of existing SOCMI process units. The SOCMI wastewater NSPS were proposed on September 12, 1994 (59 FR 46780) under authority of Section 111 of the Clean Air Act, based on the Administrator's determination that VOC emissions from SOCMI wastewater operations cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare.

DATES: Comments on today's proposal must be received on or before November 13, 1995.

ADDRESSES: Interested parties may submit written comments regarding the amendments to the proposed rule (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention, Docket No. A–94–32, U. S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy also be sent to Robert Lucas at the address listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Lucas at telephone (919) 541–0884, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The amendments to the proposed regulatory text are not included in this **Federal Register** document, but are available in Docket No. A–94–32 or by request from the Air Docket (see **ADDRESSES**). This notice, the proposed regulatory text, the amendments to the proposed rule, and background information document are also available on the Technology Transfer Network (TTN), one of the EPA's electronic bulletin boards developed and operated by the Office of Air Quality Planning and Standards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541–5742 for up to a 14,400 bits per second (bps) modem. If more information on the TTN is needed, call the HELP line at (919) 541–5384.

I. Background

On September 12, 1994, the EPA proposed standards to limit VOC emissions from SOCMI wastewater. The proposed standards would regulate VOC emissions from wastewater generated by SOCMI process units and are limited to emission points in the associated process unit's wastewater collection and treatment system. The standards would require all new, modified, and reconstructed SOCMI process units to control wastewater emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts. In addition to requiring end-of-pipe and add-on controls, the standards would also control VOC wastewater emissions by eliminating or reducing the formation of these pollutants.

Today's proposal clarifies how the SOCMI wastewater NSPS applies to modifications of existing SOCMI process units in response to concerns raised by representatives of the chemical manufacturing industry. The EPA is addressing some of the industry's concerns at this time, because modifications of SOCMI process units that generate wastewater that were modified after September 12, 1994, will be subject to the final NSPS. Additional issues raised by comments to the September 12, 1994 proposed rule will be addressed at the time that the final rule is promulgated.

II. Modification of Existing Process Units

a. Increased Emissions From Non-Wastewater Sources

Today's proposal clarifies that physical and operational changes to SOCMI process units that result in increased emissions from non-wastewater sources do not subject a process unit to the SOCMI wastewater NSPS. Under the existing regulatory framework any physical or operational change to a SOCMI process unit that results in an increase in emissions from any emission source within a process unit—irrespective of whether the increased emissions are from wastewater sources—could be considered to be a modification within the meaning of section 111 of the Act, 42 U.S.C. § 7411.[1] Accordingly, a physical or operational change to a SOCMI process unit that results in increased emissions from sources other than wastewater would subject an existing SOCMI process unit (that was

[1] The NSPS general provisions that address modifications provide that ''. . . *any physical or operational change to an existing facility which results in an increase in the emission rate* to the atmosphere of any pollutant to which a standard applies *shall be considered a modification* within the meaning of section 111 of the Act. *Upon modification, an existing facility shall become an affected facility* for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere.'' (emphasis added)(40 CFR § 60.14(a))

modified after the SOCMI wastewater NSPS was proposed) to the NSPS.[2]

Today's proposal, therefore, adds section 60.787(a) to the SOCMI wastewater NSPS to make it clear that the rule applies only to emissions from wastewater sources, not to emissions from other, non-wastewater sources. The new provision provides that to be considered a modification within the meaning of section 111 of the Act the increase of emissions to the atmosphere brought about by any physical or operational change to an existing facility (i.e., process unit) must be an increase in emissions from wastewater generated by the process unit. Physical and operational changes that result in an increase in emissions from other emissions sources within the process unit such as process vents or equipment leaks not related to the collection and/or treatment of wastewater will not be considered a modification under the provisions of the SOCMI wastewater NSPS.

Section 60.787 is amended by revising the section title to ''Modification and Reconstruction'', adding a new paragraph (a), and reformatting the original paragraph (a) to now be paragraph (b).

The new § 60.787(a) states that ''For the purposes of this subpart, any physical or operational change to an existing process unit that results in an increase in the emission rate to the atmosphere of VOC shall be considered a modification within the meaning of section 111 of the Act, 42 U.S.C. § 7411, to the extent that an increase in emissions is from wastewater generated by the process unit. Physical and operational changes that result in an increase in emissions from other emission sources within the process unit, such as process vents or equipment leaks, not associated with or related to the collection, storage, and/or treatment of wastewater shall not be considered a modification under this subpart. [Note: Sources of VOC emissions associated with wastewater collection, storage, and treatment systems include but are not limited to individual drain systems, manholes, junction boxes, lift stations, trenches, sumps, weirs, oil-water separators, equalization or neutralization basins, clarifiers, aeration basins, storage and treatment tanks, surface impoundments, and containers.]''

b. Compliance Schedule

Today's proposal would also allow the owner or operator of a SOCMI process unit more time to comply with the SOCMI wastewater NSPS, if the modification of a process unit requires major capital improvements to the wastewater collection and treatment system. The NSPS general provisions at 40 CFR 60.14(g) require that modified sources comply with the NSPS within 180 days of completion of the physical or operational change that results in increased emissions. Compliance with the proposed standards for wastewater equipment and control devices, however, will in some cases require large capital projects, such as the excavation of underground sewer pipes, that may take longer than 180 days to complete.

Today's proposal, therefore, adds section 60.770(e) to the SOCMI wastewater NSPS to allow up to three years, if warranted, to complete capital improvements to wastewater collection and treatment systems necessary to comply with the SOCMI wastewater NSPS as a result of the modification of a process unit. To obtain an extension to the 180 day compliance deadline in 40 CFR § 60.14(g), the owner or operator of an affected facility would be required to submit a compliance schedule and a justification for the schedule to the Administrator for approval. Today's proposal also adds section 60.770(d) to clarify that extensions of time to comply with the NSPS would be limited to situations involving the modification of a process unit; affected facilities for which construction or reconstruction is commenced after September 12, 1994 would continue to be required to be in compliance with the NSPS upon the initial start-up of the affected facility.

Section 60.770 is amended by revising the section title to ''Applicability, designation of affected facility, and compliance schedule,'' and by adding new paragraphs (d) and (e).

The new § 60.770(d) states that ''the owner or operator of an affected facility for which construction or reconstruction is commenced after September 12, 1994 (the proposal date), shall be in compliance with the provisions of this subpart upon initial start-up of the affected facility.''

The new § 60.770(e) requires that ''the owner or operator of an existing facility that becomes an affected facility under this subpart as a result of a modification, within the meaning of section 111 of the Clean Air Act, 42 U.S.C. § 7411, and as specified in § 60.787(a) of this subpart, shall be in compliance with applicable requirements of this subpart within 180 days of the completion of any physical or operational change as provided in § 60.14(g) of this part, unless the Administrator approves, upon the submission of a compliance schedule and a justification for the schedule, additional time up to a maximum of three years from the completion of the physical or operational change to comply with the applicable requirements of this subpart.''

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Volatile organic compounds.

Statutory Authority: The statutory authority for this proposed amendment is provided by sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended; 42. U.S.C., 7401, 7411, 7414, and 7601.

Dated: September 25, 1995.

Richard Wilson,

Acting Assistant Administrator.

[FR Doc. 95–25182 Filed 10–10–95; 8:45 am]

BILLING CODE 6560–50–P

[2] Section 60.770 of the proposed SOCMI wastewater NSPS (59 FR 46780, September 12, 1994) defines an ''affected facility'' that must comply with the NSPS to be ''. . . a process unit that generates a wastewater and produces one or more of the chemicals listed in § 60.788 of this subpart as a product, co-product, by-product, or intermediate for which construction, modification, or reconstruction of the process unit commenced after September 12, 1994.''

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40 CFR Part 70

[TN–NASH–95–01; FRL–5313–6]

Clean Air Act Proposed Full Approval, or in the Alternative, Proposed Interim Approval of Operating Permits Program; Metropolitan Health Department, Metropolitan Government of Nashville and Davidson County, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval, or proposed interim approval in the alternative.

SUMMARY: The EPA proposes full approval of the operating permits program submitted by the State of Tennessee on behalf of the Metropolitan Health Department (''Nashville-Davidson County'' or ''the County''), located in the geographic area of Nashville-Davidson County. Alternatively, EPA proposes to grant interim approval if specified changes are not adopted prior to final promulgation of this rulemaking. Nashville-Davidson County's program was submitted for the purpose of complying with Federal requirements which mandate that states or local authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

DATES: Comments on this proposed action must be received in writing by November 13, 1995.

ADDRESSES: Written comments on this action should be addressed to Carla E. Pierce, Chief, Air Toxics Unit/Title V Program Development Team, Air Programs Branch, at the EPA Region 4 office listed below. Copies of the Nashville-Davidson County submittal and other supporting information used in developing the proposed full/interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE, Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Title V Program Development Team, Air Programs Branch, Air Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE, Atlanta, GA 30365, (404) 347–3555, extension 4150.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

As required under title V of the Clean Air Act (''the Act'') as amended by the 1990 Clean Air Act Amendments, EPA promulgated rules on July 21, 1992 (57 FR 32250) that define the minimum elements of an approvable state or local operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state or local agency operating permits programs. These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V and part 70 require states or authorized local agencies to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act requires that states or authorized local agencies develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. If the state or authorized local agency submission is materially changed during the one year review period, 40 CFR 70.4(e)(2) allows EPA to extend the review period for no more than one year following receipt of the additional material. EPA received the Nashville-Davidson County title V operating permit program submittal on November 13, 1993. Nashville-Davidson County provided EPA with additional material in supplemental submittals dated April 19, 1994, September 27, 1994, and December 28, 1994. Because these supplements materially changed the County's title V program submittal, EPA extended the one-year review period.

EPA's program review occurs pursuant to Section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by November 15, 1995, or by the end of an interim program, it must establish and implement a Federal operating permits program for that State or local agency.

II. Proposed Action and Implications

A. Analysis of the Nashville-Davidson County Submission

The Metropolitan Health Department has requested full approval of its title V operating permits program, which covers the geographic area of Nashville-Davidson County within the State of Tennessee. EPA has concluded that the operating permit program submitted by the County meets the requirements of title V and part 70, and proposes to grant full/interim approval to the program. For detailed information on the analysis of the Nashville-Davidson County submission, please refer to the Technical Support Document (TSD) contained in the docket at the address noted above.

1. Program Support Materials

Pursuant to section 502(d) of the Act, each state or local authority must develop and submit to the Administrator an operating permits program under state or local law or under an interstate compact meeting the requirements of title V of the Act. On November 13, 1993, the Tennessee Department of Environment and Conservation (TDEC) requested, under the signature of the Tennessee Governor's designee, approval of the Nashville-Davidson County operating permit program with full authority to administer the program in all areas of the County. The County has been delegated authority to implement part 70 under Tennessee law (Tennessee Code Annotated (TCA), section 68–25–115). The TDEC supplemented the County's program submittal on April 19, 1994, September 27, 1994, and December 28, 1994.

The Nashville-Davidson County submittal addresses, in Section 70.4 entitled ''State Program Submittal and Transition,'' the requirements of 40 CFR 70.4(b)(1) by describing how the County intends to carry out its responsibilities under the part 70 regulations. EPA has deemed the program description to be sufficient for meeting the requirements of 40 CFR 70.4(b)(1).

Pursuant to 40 CFR 70.4(b)(3), each state or local authority is required to submit a legal opinion from the Attorney General (or the attorney for the state or local air pollution control agency that has independent legal counsel) demonstrating adequate authority to carry out all aspects of the title V operating permits program. The Metropolitan Government of Nashville and Davidson County submitted a Legal Opinion demonstrating adequate legal authority as required by Federal law and regulation.

Section 70.4(b)(4) requires the submission of relevant permitting program documentation not contained in the regulations, such as permit application forms, permit forms, and relevant guidance to assist in the County's implementation of its permit program. Appendix 5 of the Nashville-Davidson County submittal includes the permit application forms, permit forms, and other relevant guidance that the County intends to use for the implementation of its permit program. EPA has determined that the application forms meet the requirements of 40 CFR 70.5(c).

2. Regulations and Program Implementation

Nashville-Davidson County developed Regulation No. 13 for the implementation of the substantive requirements of 40 CFR part 70. The County also made changes to Chapter 10.56 of the Metropolitan Code of Law (M.C.L.) to implement other part 70 requirements. These provisions, and several other rules and statutes providing for the County's permitting and administrative actions, were submitted by Nashville-Davidson County with sufficient evidence of procedurally correct adoption as required by 40 CFR 70.4(b)(2).

The Nashville-Davidson County program, in sections 13.2, 13.3 of Regulation No. 13, and M.C.L. section 10.56.10, meets the requirements of 40 CFR 70.2 and 70.3 with regard to applicability. Sections 13.3, 13.4 and 13.5 of Regulation No. 13, meet the requirements of 40 CFR 70.4, 70.5, and 70.6 for permit content (including operational flexibility) and complete permit application forms. The County's program does not provide for off-permit changes as described in 40 CFR 70.4(b)(14).

Section 70.4(b)(2) requires states or local agencies to include any criteria used to determine insignificant activities or emission levels for the purpose of determining complete applications. Section 70.5(c) states that an application for a part 70 permit may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate appropriate fee amounts. Section 70.5(c) also states that EPA may approve, as part of a state or local program, a list of insignificant activities and emissions levels which need not be included in permit applications. Under part 70, a state or local agency must request and EPA may approve as part of a state or local program any activities or emission levels that they wish to consider insignificant. Part 70, however, does not establish emissions thresholds for insignificant activities. EPA has accepted emissions thresholds of five tons per year for criteria pollutants, and the lesser of 1000 pounds per year or section 112(g) de minimis levels for HAP, as reasonable.

The provisions addressing the insignificant activities list of Nashville-Davidson County can be found in M.C.L. section 10.56.050. This section provides for the exemption of certain emissions units or pollutant-emitting activities from the title V permitting process. As required by 40 CFR 70.5(c), the County proposed revisions to M.C.L. section 10.56.050 on July 29, 1995, to ensure that information needed to determine the applicability of, or to impose, any applicable requirement, or to collect any permit fees is not excluded from the application. Specifically the new provision, M.C.L. section 10.56.050(F), will read as follows: ''Notwithstanding any exemptions in this Section, any application submitted in accordance with Section 10.56.020 and Section 10.50.040 of this Chapter shall include all emission sources and quantify emissions if needed to determine major source status, to determine compliance with an applicable requirement and/or the applicability of any applicable requirement such as a NSPS, NESHAPS, or MACT standard, etc., or in [the] calculation [of] permit fees in accordance with Section 10.56.080.''

EPA has determined that the proposed provision is acceptable and, as a condition of full approval, the County plans to expeditiously adopt the proposed changes prior to EPA's final action on the County's program.

Part 70 requires prompt reporting of deviations from the permit requirements. The contents of 40 CFR 70.6(a)(3)(iii)(B) require the permitting authority to define ''prompt'' in relation to the degree and type of deviation likely to occur and the applicable requirements. Although the permit program regulations should define ''prompt'' for purposes of administrative efficiency and clarity, an acceptable alternative is to define ''prompt'' in each individual permit. EPA believes that ''prompt'' should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement, given this is a distinct reporting obligation under 40 CFR 70.6(a)(3)(iii)(A). Where ''prompt'' is defined in the individual permit but not in the program regulations, EPA may veto permits that do not require sufficiently prompt reporting of deviations. Nashville-Davidson County has proposed to define ''prompt'' in section 13.4 of Regulation No. 13.

Nashville-Davidson County has the authority to issue variances from requirements imposed by local law under M.C.L. section 10.56.130. EPA regards this provision as wholly external to the program submitted for approval under part 70, and consequently proposes to take no action on this provision of local law. EPA has no authority to approve provisions of local law, such as the variance provision referred to, that are inconsistent with title V. EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a Federally enforceable part 70 permit, except where such relief is granted through the procedures allowed by part 70. A part 70 permit may be issued or revised (consistent with part 70 permitting procedures) to incorporate those terms of a variance that are consistent with applicable requirements. A part 70 permit may also incorporate, via part 70 permit issuance or modification procedures, the schedule of compliance set forth in a variance. However, EPA reserves the right to pursue enforcement of applicable requirements notwithstanding the existence of a compliance schedule in a permit to operate. This is consistent with 40 CFR 70.5(c)(8)(iii)(C), which states that a schedule of compliance ''shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.''

Sections 13.5 and 13.6 of Regulation No. 13 in the Nashville-Davidson County program meet the permit processing requirements (including public participation and minor permit modifications) of 40 CFR 70.7 and 70.8. Sections 90 and 150 of M.C.L. Chapter 10.56 and T.C.A. 68–210–112 address the enforcement authority requirements of 40 CFR 70.11.

The aforementioned TSD contains the detailed analysis of the Nashville-Davidson County program and describes the manner in which the County's program meets all of the operating permit program requirements of 40 CFR part 70.

3. Permit Fee Demonstration

Section 502(b)(3) of the Act requires each permitting authority to collect fees sufficient to cover all reasonable direct and indirect costs necessary for the development and administration of its title V operating permit program. Each title V program submittal must contain either a detailed demonstration of fee adequacy or a demonstration that aggregate fees collected from title V sources meet or exceed $25 per ton of emissions per year (adjusted from 1989 by the Consumer Price Index (CPI)). The $25 per ton is presumed, for program approval, to be sufficient to cover all reasonable program costs and is thus referred to as the ''presumptive minimum.''

Nashville-Davidson County has elected to adopt the ''presumptive minimum'' of $25/ton (annually adjusted by the CPI) for each regulated pollutant. The fee demonstration included in the program submittal indicates that the fees collected will adequately cover the anticipated costs of the operating permit program.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority for Section 112 Implementation. In its program submittal, Nashville-Davidson County demonstrates adequate legal authority to implement and enforce all Section 112 requirements through the title V permit. This legal authority is contained in M.C.L. section 10.56.210, and in section 13.1 of Regulation No. 13 where the term ''applicable requirements'' is defined. EPA has determined that this legal authority is sufficient to allow the local agency to issue permits that assure compliance with all section 112 requirements.

EPA is interpreting the above legal authority to mean that Nashville-Davidson County is able to carry out all section 112 activities with respect to part 70 and non-part 70 sources. For

further rationale on this interpretation, please refer to the TSD.

b. Implementation of Section 112(g) Upon Program Approval. EPA issued an interpretive notice on February 14, 1995 (60 FR 8333), which outlines EPA's revised interpretation of section 112(g) applicability. The notice postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretative notice explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow states time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), Nashville-Davidson County must have a Federally enforceable mechanism for implementing section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing local regulations.

EPA is aware that Nashville-Davidson County lacks a program designed specifically to implement section 112(g). However, the County does have a preconstruction review program that can serve as an adequate implementation vehicle during the transition period because it would allow the County to select control measures that would meet the maximum achievable control technology (MACT), as defined in section 112, and incorporate these measures into a Federally enforceable preconstruction permit. For this reason, EPA proposes to approve the use of Nashville-Davidson County's preconstruction review program found in M.C.L. section 10.56.020, under the authority of title V and part 70, solely for the purpose of implementing section 112(g) to the extent necessary during the transition period between section 112(g) promulgation and adoption of a local rule implementing EPA's section 112(g) regulations. Although section 112(l) generally provides authority for approval of local air programs to implement section 112(g), title V and section 112(g) provide for this limited approval because of the direct linkage between the implementation of section 112(g) and title V. The scope of this approval is narrowly limited to section 112(g) and does not confer or imply approval for purpose of any other provision under the Act (e.g., section 110). This approval will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until local regulations are adopted. The duration of this approval is limited to 18 months following promulgation by EPA of the section 112(g) rule to provide adequate time for the County to adopt regulations consistent with the Federal requirements.

c. Program for Delegation of Section 112 Standards as Promulgated. The requirements for part 70 program approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a state or local program for delegation of section 112 standards promulgated by EPA as they apply to title V sources. Section 112(l)(5) requires that the County's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA also proposes to grant approval, under section 112(l)(5) and 40 CFR 63.91, of Nashville-Davidson County's program for receiving delegation of future section 112 standards and programs that are unchanged from the Federal rules as promulgated. In addition, EPA proposes delegation of all existing standards and programs under 40 CFR parts 61 and 63 for part 70 sources and non-part 70 sources.[1]

Nashville-Davidson County has informed EPA that it intends to accept the delegation of future section 112 standards using the mechanism of adoption-by-reference. The details of the County's use of its delegation mechanism are set forth in a letter dated December 28, 1994, submitted by the County as a title V program addendum.

d. Commitment to Implement Title IV of the Act. Nashville-Davidson County adopted and incorporated by reference the provisions of 40 CFR part 72. On March 29, 1995, EPA published a **Federal Register** notice (60 FR 16127) notifying affected sources that the County's acid rain regulation was acceptable for purposes of administering an acid rain program and that the Nashville-Davidson County acid rain portion of the County's title V program has been established. Nashville-Davidson County has committed to incorporate by reference any new or revised provisions following promulgation by EPA.

B. Proposed Actions

1. Full Approval

The EPA is proposing full approval of the operating permits program submitted by Nashville-Davidson County on November 12, 1993, and as supplemented on April 19, 1994, September 27, 1994, and December 28, 1994, if appropriate revisions consistent with 40 CFR 70.5(c) are incorporated in M.C.L. section 10.56.050, and adopted prior to final promulgation of this rulemaking. EPA has determined that the Nashville-Davidson County program is otherwise adequate to meet the minimum elements of an approvable operating permits program as specified in 40 CFR part 70.

2. Interim Approval

Alternatively, EPA is proposing to grant interim approval under 40 CFR 70.4(d) to the Nashville-Davidson County operating permits program if the change required for full approval, as described above, is not made prior to final promulgation of this rulemaking. EPA can grant interim approval because Nashville-Davidson County's program substantially meets the requirements of part 70 as discussed in section II(A) of this notice. The interim approval issue noted above will not prevent the County from issuing permits that are consistent with the part 70 program.

If EPA grants interim approval to the Nashville-Davidson County program, the interim approval would extend for two years following the effective date of final interim approval, and could not be renewed. During the interim approval period, Nashville-Davidson County would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a Federal permits program for Nashville-Davidson County. Permits issued under a program with interim approval are fully effective with respect to part 70. The 12-month time period for submittal of permit applications by sources subject to part 70 requirements and the three-year time period for processing the initial permit applications begin upon the effective date of final interim approval.

Following the granting of final interim approval, if Nashville-Davidson County fails to submit a complete corrective program for full approval by the date six months before expiration of the interim

[1] The radionuclide National Emission Standards for Hazardous Air Pollutant (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State operating permits program for part 70 sources. There is not yet a Federal definition of ''major'' for radionuclide sources. Therefore, until a major source definition for radionuclide is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under part 70 for another reason, thus requiring a part 70 permit. EPA will work with the State in the development of its radionuclide program to ensure that permits are issued in a timely manner.

approval, EPA would start an 18-month clock for mandatory sanctions. If Nashville-Davidson County then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA is required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that Nashville-Davidson County has corrected the deficiency by submitting a complete corrective program.

3. Other Actions

As discussed previously in section II.A.4.b., EPA proposes to approve Nashville-Davidson County's preconstruction review program found in M.C.L. section 10.56.020, under the authority of title V and part 70 solely for the purpose of implementing section 112(g) to the extent necessary during the transition period between 112(g) promulgation and adoption of a local rule implementing EPA's section 112(g) regulations.

In addition, as discussed in section II.A.4.c., EPA proposes to grant approval under section 112(l)(5) and 40 CFR 63.91 to the County's program for receiving delegation of section 112 standards and programs that are unchanged from Federal rules as promulgated. EPA also proposes to delegate all existing standards under 40 CFR parts 61 and 63. This program for delegation applies to both part 70 and non-part 70 sources.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed full/interim approval. Copies of the Nashville-Davidson County submittal and other information relied upon for the proposed approval are contained in docket number TN–NASH–95–01 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full/interim approval. The principal purposes of the docket are:

(1) to allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) to serve as the record in case of judicial review. The EPA will consider any comments received by November 13, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act of 1995

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Authority: 42 U.S.C. sections 7401–7671q.

Dated: September 22, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–25069 Filed 10–10–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 88–548, FCC 95–392]

Private Land Mobile Services Frequency Coordination

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Commission has released an *Order* terminating the proceeding of PR Docket No. 88–548 concerning private land mobile services frequency coordination. This action was initiated by the Commission and is necessary because the Notice of Proposed Rule Making issued in that proceeding has become outdated.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of an Order adopted on September 13, 1995, and released on September 26, 1995. The full text of the Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M St. N.W., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc. 2100 M St. N.W., Washington, DC 20037, telephone (202) 857–3800.

Summary of Order

a. On August 15, 1989, the Commission released a Notice of Proposed Rule Making, PR Docket No. 88–548, 54 FR 35359, August 25, 1989, proposing to modify frequency coordination procedures in the private land mobile radio services (PLMRS). On June 23, 1995, the Commission released a Report and Order and Further Notice of Proposed Rule Making, PR Docket No. 92–235, 60 FR 37152, July 19, 1995, which addressed, among other issues, frequency coordination in the PLMRS. The Report and Order portion of the item stated that the Commission has decided to consolidate the private land mobile radio services below 800 MHz, and requested that the PLMRS community and frequency coordinators, submit a consensus consolidation plan to the Commission within 90 days of the effective date of the Report and Order. Because of our action in PR Docket No. 92–235, the rationale upon which our original proposal was based and the comments filed in response to the proposal are outdated. Therefore, we conclude that the public interest will be

best served by terminating this proceeding.

b. Accordingly, it is ordered that under the authority contained in Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) this proceeding is terminated without further action.

List of Subjects in 47 CFR Part 90

Frequency coordination, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25141 Filed 10–10–95; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register

Vol. 60, No. 196

Wednesday, October 11, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Consep, Inc. of Bend, Oregon, an exclusive license for U.S. Patent Application Serial No. 08/231,213 filed April 22, 1994 and U.S. Patent Application Serial No. 08/440,023 filed May 12, 1995, both entitled ''A Novel Trapping System for Fruit Flies''. Notice of Availability for U.S. Patent Application Serial No. 08/231,213 was published in the **Federal Register** on June 21, 1994. Serial No. 08/440,023 is a division of Serial No. 08/231,213.

DATES: Comments must be received by no later than December 10, 1995.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Baltimore Boulevard, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Consep, Inc. has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7

R.M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 95–25166 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–03–M

Commodity Credit Corporation

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension for and revision to a currently approved information collection in support of loan deficiency payments authorized by the Agricultural Act of 1949, as amended (the 1949 Act), under the following rice, upland cotton, feed grains, wheat, oilseeds, and honey price support programs.

DATES: Comments on this notice must be received on or before December 11, 1995 to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Margaret Wright, Agricultural Program Specialist, Price Support Division, USDA, CFSA, PO Box 2415, Washington, DC 20013, (202) 720–8481.

SUPPLEMENTARY INFORMATION:

Title: Loan Deficiency Payments

OMB Number: 0560–0129

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agriculture Act of 1949, as amended, provides for the making of loan deficiency payments with respect to specified commodities. Forms required for requesting these payments are used by producers wishing to obtain a loan deficiency payment instead of a price support loan with respect to eligible production. The completed application is used by CCC when issuing a loan deficiency payment.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .33333 hours per response.

Respondents: Individual producers and Small businesses.

Estimated Number of Respondents: 114,961.

Estimated Number of Responses per Respondent: 1.1.

Estimated Total Annual Burden on Respondents: 40,337 hours.

Requests for copies of this information collection and comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques, other forms of information technology, or any other aspect of this collection should be sent to the individual named above.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on October 3, 1995.

Bruce R. Webber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–25130 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–05–P

Grain Inspection, Packers and Stockyards Administration

Amendment to Certification of Central Filing System—Nebraska

The Statewide central filing system of Nebraska has been previously certified, pursuant to Section 1324 of the Food Security Act of 1985, on the basis of information submitted by the Nebraska Secretary of State, for farm products produced in that State (52 FR 49056, December 29, 1987).

The certification is hereby amended on the basis of information submitted by Scott Moore, Secretary of State, for additional farm products produced in that State as follows:

ostrich
emu
llama
buffalo

This is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Sec. 1324(c)(2), Pub. L. 99–198, 99 Stat. 1535, 7 U.S.C. 1631(c)(2); 7 CFR §§ 2.18(e)(3), 2.56(a)(3), 55 FR 22795.

Dated: October 4, 1995.

Calvin W. Watkins,

Deputy Administrator, Packers and Stockyards Programs.

[FR Doc. 95–25169 Filed 10–10–95; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF COMMERCE

Office of the Secretary

Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Iain S. Baird
Stephen C. Browning
Carmen G. Lowrey
Michael A. Levitt
Keith Calhoun-Senghor
Carolyn P. Acree
Sonya G. Stewart
Wyndom D. Wynegar
Donald E. Humphries

Sandra W. Richardson,

Executive Secretary, Office of the Secretary, Performance Review Board.

[FR Doc. 95–25207 Filed 10–10–95; 8:45 am]

BILLING CODE 3510–BS–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

October 4, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 11, 1995.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6704. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 17325, published on April 5, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 4, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on October 11, 1995, you are directed to amend the directive dated March 30, 1995 to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
336/636	564,601 dozen.
338/339	1,261,166 dozen.
341	843,639 dozen.
350/650	120,405 dozen.
359–S/659–S [2]	1,226,046 kilograms.
433	10,144 dozen.
447	18,232 dozen.
604–A [3]	412,623 kilograms.
618	1,883,343 square meters.
625/626/627/628/629	18,094,443 square meters.
638/639	1,367,464 dozen.
Group II	
201, 218, 220, 222–224, 226, 227, 229, 237, 239, 330, 332, 333, 349, 352–354, 359–O[4], 362, 363, 369–O[5], 400, 410, 414, 431, 432, 434, 435, 436, 438, 439, 440, 442, 444, 459, 464, 465, 469, 603, 604–O[6], 606, 607, 621, 622, 624, 630, 632, 633, 649, 652–654, 659–O[7], 665, 666, 669–O[8], 670–O[9], 831–836, 838, 839, 840, 842–846, 850–852, 858, and 859, as a group.	76,369,401 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 359–S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020; Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[3] Category 604–A: only HTS number 5509.32.0000.

[4] Category 359–O: all HTS numbers except Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 359–S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020.

[5] Category 369–O: all HTS numbers except 6307.10.2005.

[6] Category 604–O: all HTS numbers except 5590.32.0000 (Category 604–A).

[7] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[8] Category 669–O: all HTS numbers except 6305.31.0010, 6305.31.0020 and 6305.39.0000 (Category 669–P).

[9] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–25191 Filed 10–10–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mauritius

October 4, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 11, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 338/339 is being increased for swing and carryforward, reducing the limit for Categories 638/639 to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 17333, published on April 5, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 4, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Mauritius and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on October 11, 1995, you are directed to amend the directive dated March 30, 1995 to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels not in a group	
338/339	457,763 dozen.
638/639	355,461 dozen.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1994.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–25193 Filed 10–10–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

October 4, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 11, 1995.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6714. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 9014, published on February 16, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 4, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 13, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995.

Effective on October 11, 1995, you are directed to adjust the limits for the following categories, as provided under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
239	968,144 kilograms.
313/226	94,733,759 square meters.
314	3,873,681 square meters.
338	5,183,252 dozen.

Category	Adjusted twelve-month limit [1]
351/651	264,903 dozen.
360	818,279 numbers.
361	3,456,322 numbers.
363	42,897,244 numbers.
369–F/369–P [2]	2,098,183 kilograms.
369–R [3]	9,791,519 kilograms.
369–S [4]	640,590 kilograms.
638/639	121,255 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 369–F: only HTS number 6302.91.0045; Category 369–P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[3] Category 369–R: only HTS number 6307.10.2020.

[4] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–25192 Filed 10–10–95; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Extension—Final Environmental Impact Statement for Alaska Military Operations Areas

The comment period for the Alaska Military Operation Areas (MOAs) Final Environmental Impact Statement (EIS) is extended for an additional 30 days. The new closing date for receipt of comments is November 10, 1995. Please send any written comments to 611 ASG/LGV, 6900 9th Street, Suite 361, Elmendorf AFB, AK 99506–2270. For further information, please contact the Alaska MOA EIS Team between the hours of 8 a.m. and 5 p.m., Monday through Friday, at (907) 552–4151 (voice line) or fax comments to (907) 552–0170. A 24-hour answering machine can be reached at 1–800–538–6647.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–25075 Filed 10–10–95; 8:45 am]

BILLING CODE 3910–01–P

Final Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Demolition of Historic Facilities at Wright-Patterson Air Force Base, OH

The United States Air Force (Air Force) announces its intent to prepare an Environmental Impact Statement (EIS) to assess the potential environmental impacts of the proposed demolition of multiple historic facilities eligible for nomination to the National Register of Historic Places at Wright-Patterson Air Force Base (WPAFB), Ohio. It is anticipated that the proposed action and alternatives would impact the following resources: Cultural resources (specifically, historic properties), health and safety issues (e.g., asbestos and lead-based paint), socioeconomics, visual resources, land use, transportation (including parking), air quality, and noise. The EIS will provide the decisionmakers and the public with the information required to understand the future consequences of the proposed action and alternatives.

Due to defense cutbacks, military installations are being required to reduce the number of square feet of base facilities. In addition, any military construction of new facilities must be offset by a reduction in the square footage of existing buildings. An ongoing program to reduce excess square footage is in effect at WPAFB. This program addresses a total of 54 facilities that have been proposed for demolition through the year 2000.

The base contains a number of significant cultural resources, including the Huffman Prairie Flying Field, a portion of the Dayton Aviation Heritage National Historical Park, and five potential National Historic Districts. Three of these districts, the Fairfield Air Depot Historic District (FADHD), the Wright Field Historic District (WFHD), and the Army Air Forces Historic District (AAFHD) contain the facilities proposed for demolition. The FADHD includes the original 40-acre tract of land for the World War I Fairfield Air Depot that represents the earliest military presence at what is now WPAFB, and a portion of adjacent Wilbur Wright Field, which was leased by the government during the war and later became part of the combined Fairfield Air Depot complex. The WFHD includes the original Wright Field complex, constructed between 1926 and 1931, that served as headquarters for the Materiel Division of the U.S. Army Air Corps. The AAFHD was constructed between 1941 and 1945 in support of World War II mobilization and includes expanded wartime flying, modification, testing, and maintenance facilities.

Of the 54 facilities considered for demolition under the ongoing program at WPAFB, 23 facilities are potentially eligible for nomination to the National Register of Historic Places. The structures will be evaluated for impacts resulting from the proposed action and reasonable alternatives. It is anticipated that the cumulative impacts of past and proposed future facility demolition will result in significant adverse impacts to base cultural resources, and particularly to the three historic districts. Alternatives to the proposed demolition under consideration include:

Alternative 1—No Action Alternative

The buildings would be retained in their current capacity and would be maintained and utilized in a manner similar to their present use.

Alternative 2—Adaptive Reuse

This alternative would consist of altering the existing use of the facilities and either returning the facilities to their original use or adapting the facilities for suitable alternative use. Many of the historic facilities are no longer used for the function for which they were constructed.

Alternative 3—Mothballing

This alternative is included in a category of alternatives known as ''banking the facilities,'' whereby buildings are vacated but preserved for future use. Mothballing would include documenting the significant features, conducting a condition assessment, stabilizing and securing the building, providing adequate ventilation to the interior, securing utilities and mechanical systems, and developing and implementing a maintenance and monitoring plan.

Alternative 4—Stabilization

This alternative is a type of ''banking'' alternative. Stabilization would involve stabilizing the structure (e.g., bracing, reinforcement), turning off utilities, controlling pests by securing outside openings, securing the exterior from moisture penetration, providing periodic monitoring, and developing a minimal maintenance plan.

Alternative 5—Pickling

This alternative is a type of ''banking'' alternative. Pickling would consist of turning off all utilities, with no environmental controls.

Alternative 6—Combination of Alternatives

Under this alternative, a combination of the alternatives above (demolition, no action, adaptive reuse, and banking) would be implemented. Some buildings would be demolished while others could be reused, banked for possible future use, or continued in their current use.

To provide a forum for public officials and the community to provide

information and comments, a scoping meeting will be held on Thursday, October 26, 1995 from 7:30 to 9:30 PM at Fairborn High School Auditorium, 900 E. Dayton-Yellow Springs Road, Fairborn, Ohio. The purpose of this meeting is to present information concerning the proposed action and alternatives under consideration and to solicit public input regarding the issues to be evaluated and other reasonable alternatives that should be included. For persons unable to attend the scoping meeting, written comments and questions are welcome and will receive the same weight as oral comments received at the scoping meeting.

To ensure that the Air Force will have sufficient time to consider public input on issues and alternatives in the preparation of the draft EIS, comments should be submitted to the address below within 30 days after the date of the scoping meeting. The Air Force will accept comments at the address below at any time during the environmental impact analysis process.

For further information concerning the preparation of the EIS for the facility demolition program at WPAFB, or to provide written comments, contact: Tom Perdue, 88 ABW/EME, 5490 Pearson Road, Wright-Patterson AFB, OH 45433–5332.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–25184 Filed 10–10–95; 8:45 am]

BILLING CODE 3910–01–P

Department of the Navy

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Station Puget Sound (Sand Point), Seattle, WA

SUMMARY: This Notice provides information regarding the redevelopment authority established to plan the reuse of the former Naval Station Puget Sound (Sand Point), Seattle, WA, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, Public Law 103–421 (the Act).

FOR FURTHER INFORMATION CONTACT: John J. Kane, Director, Department of the Navy, Real Estate Operations Division, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Mike Brady, Realty Specialist, Engineering Field Activity, Northwest, Naval Facilities Engineering Command, 19917 7th Avenue NE., Poulsbo, WA 98370–7570, telephone (360) 396–0908.

SUPPLEMENTARY INFORMATION: In 1991, Naval Station Puget Sound (Sand Point), Seattle, WA, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. On September 20, 1995 the land and facilities, described below, located at Sand Point were determined surplus to the needs of the federal government and available for use by state and local governments, representatives of the homeless and other interested parties.

Election to Proceed Under New Statutory Procedures

The Act was signed into law on October 25, 1994. Section 2 of the Act gives the redevelopment authority at base closure sites the option of following new procedures with regard to the manner in which the redevelopment plan for the base is formulated and approved and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 20, 1994, the City of Seattle submitted a timely request to be covered by the provisions of the Act. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of section 2(e)(3) of the Act.

Also, pursuant to paragraph (7)(B) of section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Act, the following information regarding the redevelopment authority and surplus property at the former Naval Station Puget Sound (Sand Point), Seattle, WA, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for Naval Station Puget Sound (Sand Point), Seattle, WA for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of Seattle. The point of contact for information regarding the City's Reuse Plan is Bridgett Chandler, City of Seattle, Office of Management and Planning, 600 4th Avenue, Room 200, Seattle, WA 98104–1826, telephone (206) 684–8271, facsimile (206) 233–0047.

Surplus Property Description

The following is a listing of the land and facilities at the former Naval Station Puget Sound (Sand Point), Seattle, WA that have been declared surplus to the needs of the federal government.

Land

Approximately 137 acres of improved and unimproved fee simple land at the Naval Station Puget Sound (Sand Point), Seattle, WA located in King County, in the northeastern portion of the City of Seattle, Washington. In general, all areas will be available September 30, 1995.

Excluded from the determination of surplus are:

—Approximately 11 acres of property, which will be transferred to the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), includes Bldg. 27 to be used to meet an immediate need for additional bulk storage capacity at NOAA's Western Regional Center (WRC). Also included in the 11 acres is the NOAA access road which has been used by NOAA under a Memorandum of Agreement with the Navy since 1977. The access road is the only direct means of access to its WRC.

—Approximately 4 acres of property, which will be transferred to the Department of the Interior's National Biological Service for use by their Northwest Biological Science Center, includes several support structures (Bldgs. 60, 61, and 204). A Use Agreement with the Navy has existed since 1959. Included in the 4 acre transfer is the unrestricted access via NE. 65th Street that leads to the Warren G. Magnuson Park.

Buildings

The following is a summary of the facilities located on the above described land which will also be available September 30, 1995. Property numbers are available on request.

—Bachelor housing (2 structures). Comments: Approx. 55,546 square feet.

—Enlisted barracks (1 structure). Comments: Approx. 223,516 square feet. Portions of this building have been converted to administration space. Also includes a galley facility.

—Fire protection facilities (1 structure). Comments: Approx. 14,137 square feet.

—Hazardous storage facilities (1 structure). Comments: Approx. 548 square feet.

—Maintenance facilities (3 structures). Comments: Approx. 93,850 square feet.

—Miscellaneous facilities (5 structures). Comments: Small buildings, sentry posts, etc.

—Miscellaneous paved areas.

—Office/administration buildings (8 structures). Comments: Approx. 227,784 square feet.
—Officers quarters (5 individual houses). Comments: Approx. 22,259 square feet.
—Recreational facilities (14 structures). Comments: Approx. 75,938 square feet. Gymnasium, bowling alley, boat facilities, hobby shop, picnic sheds, softball fields, swimming pool.
—Stores and service facilities (10 structures). Comments: Approx. 133,838 square feet. Commissary and Exchange, small retail.
—Utility facilities (25 structures). Comments: Electrical, steam, water, sewage.
—Warehouse/storage facilities (6 structures). Comments: Approx. 587,177 square feet.

Expressions of Interest

Pursuant to paragraph 7(C) of section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the former Naval Station Puget Sound (Sand Point), Seattle, WA, may submit to the City of Seattle (as the redevelopment authority) a notice of interest, of such governments, representatives and parties in the above described surplus property, or any portions thereof. A notice of interest shall describe the need of the government, representative and party concerned for the desired surplus property. Pursuant to paragraphs 7 (C) and (D) of said section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Seattle the date by which expressions of interest must be submitted.

Dated: September 27, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–25134 Filed 10–10–95; 8:45 am]

BILLING CODE 3810–FF–P

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Air Station, Barbers Point, Oahu, HI

SUMMARY: This Notice provides information regarding (a) the redevelopment authority that has been established to plan the reuse of the Naval Air Station, Barbers Point, HI, (b) the surplus property that is located at that base closure site, and (c) the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Mr. J. M. Kilian, Director, Real Estate Division, Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, HI 96860–7300, telephone (808) 471–3217. For more detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Mr. Rusty Vinoya, Deputy Staff Civil Engineer, Naval Air Station, Barbers Point, HI 96862–5050, telephone (808) 684–8201.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Air Station, Barbers Point, HI, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, on September 26, 1995, land and facilities at this installation were declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless assistance provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election to Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. L. 103–421) was enacted. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plans for the closing base are formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 2, 1994, the Governor of Hawaii submitted a timely request to proceed under the new procedures. Accordingly, this notice fulfills the Federal Register publication requirement of section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the redevelopment authority for and surplus property at the Naval Air Station, Barbers Point, HI is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Air Station, Barbers Point, HI, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Barbers Point Naval Air Station Redevelopment Commission, chaired by the Director, Office of State Planning. The Commission was appointed by the Governor of Hawaii to provide advice concerning the redevelopment of the closing Air Station. A cross section of community interests is represented on the Commission. Day to day operations of the Commission are handled by an Executive Director. The address of the redevelopment authority is Barbers Point Naval Air Station Redevelopment Commission, PO Box 3540, Honolulu, HI 96811–3540, telephone (808) 587–3843 and facsimile (808) 587–2848.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Air Station, Barbers Point, Oahu, HI, that were declared surplus to the federal government on September 26, 1995.

Land

Approximately 2,146.9 acres of improved and unimproved fee simple land at the U.S. Naval Air Station, Barbers Point, on the island of Oahu, State of Hawaii. In general, all areas will be available upon the closure of the air station, anticipated for July 1999.

The surplus property includes approximately 48 acres currently utilized by the U. S. Coast Guard in support of flight operations. If the reuse plan provides for the operation of an airfield which can support the Coast Guard operational requirements, this parcel may be withdrawn from surplus.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the station closes in July 1999, unless otherwise indicated. Property numbers are available on request.

—Aircraft support facilities. Comments: Includes 3 hangars (276,809 square

feet), runways, taxiways, aircraft parking aprons, and air traffic control tower.
—Aircraft revetments (43 structures). Comments: Approx. 96,320 square feet. Concrete construction.
—Ammunition storage (32 structures). Comments: Approx. 30,992 square feet.
—Automotive Repair (1 structure). Comments: Approx. 4,032 square feet.
—Barracks (5 structures). Comments: Approx. 116,495 square feet.
—Dining Facility (3 structures) Comments: Approx. 9,974 square feet.
—Fire Station (2 structures). Comments: Approx. 11,308 square feet.
—Miscellaneous facilities (23 structures). Comments: Approx. 16,990 square feet. Includes filling station, pavilion, and security gate house.
—Office/administration buildings (5 structures). Comments: Approx. 57,662 square feet.
—Paved areas. Comments: Includes roads, sidewalks, and parking areas.
—Recreational facilities (12 structures). Comments: Approx. 6,889 square feet. Includes tennis court, handball courts, and restroom.
—Utilities. Comments: 29 electrical substations/transformer stations, 1 telephone exchange, telephone, electric, water, and sewage utility systems.
—Warehouse/storage facilities (34 structures) Comments: Approx. 124,482 square feet.
—Weapons Area (5 structures). Comments: Approx. 12,300 square feet.

Expressions of Interest

Pursuant to paragraph 7(C) of section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Air Station, Barbers Point, Oahu, HI, shall submit to the said redevelopment authority (Barbers Point Naval Air Station Redevelopment Commission) a notice of interest, of such governments, representatives and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7 (C) and (D) of said section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Hawaii the date by which expressions of interest must be submitted. In accordance with section 2(e)(6) of said Base Closure Community Redevelopment and Homeless Assistance Act of 1994, expressions of interest are being solicited by the Barbers Point Naval Air Station Redevelopment Commission with a submission deadline of November 15, 1995.

Dated: September 28, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–25135 Filed 10–10–95; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG95–54–000, et al.]

Coastal Wuxi Power Ldt., et al.; Electric Rate and Corporate Regulation Filings

October 2, 1995.

Take notice that the following filings have been made with the Commission:

1. Coastal Wuxi Power Ltd.

[Docket No. EG95–94–000]

On September 22, 1995, Coastal Wuxi Power, Ltd. (''Applicant''), West Wind Building, P.O. Box 1111, Grand Cayman, Cayman Islands, B.W.I., filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant, a Cayman Islands Corporation, intends to have an ownership interest in certain generating facilities in China. These facilities will consist of a 40 MW electric generating facility located in Wuxi City, Jiangsu Province, China including a diesel-fired gas turbine peaking unit and related interconnection facilities.

Comment date: October 17, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Western Systems Power Pool

[Docket No. ER91–195–021]

Take notice that on July 31, 1995, the Western Systems Power Pool (WSPP) filed certain information as required by Ordering Paragraph (D) of the Commission's June 27, 1991 Order (55 FERC ¶ 61,495) and Ordering Paragraph (C) of the Commission's June 1, 1992 Order on Rehearing Denying Request Not To Submit Information, And Granting In Part And Denying In Part Privileged Treatment. Pursuant to 18 CFR 385.211, WSPP has requested privileged treatment for some of the information filed consistent with the June 21, 1992 order. Copies of WSPP's informational filing are on file with the Commission, and the non-privileged portions are available for public inspection.

3. New England Power Company

[Docket Nos. ER95–267–006 EL95–25–000]

Take notice that on September 18, 1995, New England Power Company (NEP) made a compliance filing in the above referenced, consolidated dockets. NEP's compliance filing is made pursuant to the Commission's August 2, 1995 order in this proceeding and a Stipulation and Agreement between NEP and the Town of Norwood, Massachusetts, which was approved by the Commission on September 14, 1995.

NEP requests an effective date of November 17, 1995 for this compliance filing.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp

[Docket No. ER95–646–000]

Take notice that PacifiCorp on September 1, 1995, tendered for filing an amended filing in this Docket.

Copies of this filing were supplied to the City of Anaheim, California, the Public Utilities Commission of the State of California, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. ER95–1240–001]

Take notice that on September 19, 1995, PacifiCorp tendered for filing its compliance filing in the above-referenced docket.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Wickford Energy Marketing, L.C.

[Docket No. ER95–1415–000]

On August 29, 1995, and September 15, 1995, Wickford Energy Marketing, L.C. tendered for filing two amendments to its filing in this docket.

These amendments pertain to an original and a revised Rate Schedule FERC No. 1.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Vastar Power Marketing, Inc.

[Docket No. ER95–1685–000]

On September 20, 1995, and September 26, 1995, Vastar Power Market, Inc. tendered for filing two amendments to its filing in this docket.

These amendments pertain to an original and a revised Rate Schedule FERC No. 1. Comment date: October 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Texas Utilities Electric Company

[Docket No. ER95–1764–000]

Take notice that on September 15, 1995, Texas Utilities Electric Company (TU Electric) tendered for filing five executed transmission service agreements (TSAs) with Central & South West Services, Inc., Enron Power Marketing, Inc. and Electric Clearinghouse, Inc. for certain Economy Energy Transmission Service under TU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections. The TSA's provide for transmission service to and over the East HVDC interconnection.

TU Electric requests effective dates for the TSA's that will permit them to become effective on the dates service first commenced under each of the TSA's. Accordingly, TU Electric seeks waiver of the Commission's notice requirements. Copies of the filing were served on Central & South West Services, Inc., Enron Power Marketing, Inc. and Electric Clearinghouse, Inc., as well as the Public Utility Commission of Texas.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Southwestern Electric Power Company

[Docket No. ER95–1765–000]

Take notice that on September 15, 1995, Southwestern Electric Power Company (SWEPCO) submitted three service agreements, each dated August 16, 1995, establishing Central Power and Light Company (CPL), Public Service Company of Oklahoma (PSO) and West Texas Utilities Company (WTU) as customers under the terms of SWEPCO's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff).

SWEPCO requests an effective date of August 16, 1995, and accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon CPL, PSO, WTU, the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Company of Oklahoma

[Docket No. ER95–1766–000]

Take notice that on September 15, 1995, Public Service Company of Oklahoma (PSO) submitted three service agreements, each dated August 16, 1995, establishing Central Power and Light Company (CPL), Southwestern Electric Power Company (SWEPCO) and West Texas Utilities Company (WTU) as customers under the terms of SWEPCO's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff).

PSO requests an effective date of August 16, 1995, and accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon CPL, SWEPCO, WTU, the Oklahoma Corporation Commission.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. West Texas Utilities Company

[Docket No. ER95–1767–000]

Take notice that on September 15, 1995, West Texas Utilities Company (WTU) submitted three service agreements, each dated August 16, 1995, establishing Central Power and Light Company (CPL), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) as customers under the terms of WTU's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff).

WTU requests an effective date of August 16, 1995, and accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon CPL, PSO, SWEPCO and the Public Utility Commission of Texas.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–1768–000]

Take notice that on September 15, 1995, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an agreement to provide interruptible transmission service for Aquila Power Corporation (APC).

Con Edison states that a copy of this filing has been served by mail upon APC.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–1769–000]

Take notice that on September 15, 1995, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an agreement with CMEX Energy, Inc. (CMEX) to provide for the sale and purchase of energy and capacity. For energy sold by Con Edison the ceiling rate is 100 percent of the incremental energy cost plus up to 10 percent of the SIC in (where such 10 percent is limited to 1 mill per KWhr when the SIC in the hour reflects a purchased power resource). The ceiling rate for capacity sold by Con Edison is $7.70 per megawatt hour. All energy and capacity sold by CMEX will be at market-based rates.

Con Edison states that a copy of this filing has been served by mail upon CMEX.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–1770–000]

Take notice that on September 15, 1995, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an agreement with Phibro, Inc. (Phibro) to provide for the sale and purchase of energy and capacity. For energy sold by Con Edison the ceiling rate is 100 percent of the incremental energy cost plus up to 10 percent of the SIC in (where such 10 percent is limited to 1 mill per KWhr when the SIC in the hour reflects a purchased power resource). The ceiling rate for capacity sold by Con Edison is $7.70 per megawatt hour. All energy and capacity sold by Phibro will be at market-based rates.

Con Edison states that a copy of this filing has been served by mail upon Phibro.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–1771–000]

Take notice that on September 15, 1995, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an agreement with Tenneco Energy Marketing (TEM) to provide for the sale and purchase of energy and capacity. For energy sold by Con Edison the ceiling rate is 100 percent of the incremental energy cost plus up to 10 percent of the SIC in (where such 10 percent is limited to 1 mill per KWhr

when the SIC in the hour reflects a purchased power resource). The ceiling rate for capacity sold by Con Edison is $7.70 per megawatt hour. All energy and capacity sold by TEM will be at market-based rates.

Con Edison states that a copy of this filing has been served by mail upon TEM.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–1772–000]

Take notice that on September 15, 1995, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an agreement to provide interruptible transmission service for CNG Power Services Corporation (CNG).

Con Edison states that a copy of this filing has been served by mail upon CNG.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Company of Oklahoma Southwestern Electric Power Company

[Docket No. ER95–1773–000]

Take notice that on September 15, 1995, Public Service Company of Oklahoma (PSO) and Southwestern Public Service Company (SWEPCO) (jointly, ''the Companies'') submitted Transmission Service Agreements, dated August 17, 1995, and August 19, 1995, establishing Enron Power Marketing, Inc. (Enron) and the Electric Clearinghouse, Inc., respectively, as customers under the terms of the Companies' SPP Interpool Transmission Service Tariff.

The Companies request an effective date of August 17, 1995, for the service agreement with Enron and an effective date of August 19, 1995, for the service agreement with ECI. Accordingly, the Companies request waiver of the Commission's notice requirements. Copies of this filing were served upon Enron, ECI, the Public Utility Commission of Texas, and the Oklahoma Corporation Commission.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Central Power and Light Company West Texas Utilities Company

[Docket No. ER95–1774–000]

Take notice that on September 15, 1995, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) (jointly, ''the Companies'') submitted Transmission Service Agreements, dated August 19, 1995, and August 17, 1995, establishing Electric Clearinghouse, Inc. (ECI) and the Enron Power Marketing, Inc., respectively, as customers under the terms of the ERCOT Interpool Transmission Service Tariff.

The Companies request an effective date of August 19, 1995, for the service agreement with ECI and an effective date of August 17, 1995, for the Service Agreement with Enron. Accordingly, the Companies request waiver of the Commission's notice requirements. Copies of this filing were served upon ECI and the Public Utility Commission of Texas.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Tampa Electric Company

[Docket No. ER95–1775–000]

Take notice that on September 15, 1995, Tampa Electric Company (Tampa Electric) tendered for filing a Point-to-Point Transmission Service Tariff and a Network Integration Service transmission Tariff. Tampa Electric states that the tariffs conform to the *pro forma* tariffs proposed by the Commission in Docket Nos. RM95–8–000, *et al.*

Tampa Electric requests that the tariffs be made effective on November 14, 1995.

Copies of the filing have been served on each party to an existing transmission service agreement with Tampa Electric, and the Florida Public Service Commission.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Union Electric Company

[Docket No. ER95–1788–000]

Take notice that on September 18, 1995, Union Electric Company (UE) tendered for filing a change in rate made pursuant to an Amendment dated January 26, 1994 (Amendment), to the Interchange Agreement dated June 28, 1978, between Associated Electric Cooperative and UE. UE asserts that the change implements a customer service charge contemplated by the Amendment.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. Texas-New Mexico Power Company and Texas Generating Company II

[Docket No. ES95–37–006]

Take notice that on September 29, 1995, Texas-New Mexico Power Company (TNP) and Texas Generating Company II (TGC II) filed an amendment to the application in Docket No. ES95–37–000 *et al.,* requesting that the Commission:

(1) authorize TNP and TGC II to assume liabilities, as obligor, of a credit facility in the amount of $150 million (''New Credit Facility'');

(2) authorize TNP to issue a maximum amount of $80 million in first mortgage bonds as collateral security of borrowings under the New Credit Facility;

(3) authorize TGC II to guarantee the New Credit Facility; and

(4) grant any other authority which the Commission deems necessary to authorize TNP and TGC II to participate in the transactions.

Comment date: October 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. Cleveland Public Power v. Cleveland Electric Illuminating Company and Toledo Edison Company

[Docket No. TX95–7–000]

Take notice that on September 12, 1995, Cleveland Public Power tendered for filing an order directing Cleveland Electric Illuminating Company and Toledo Edison Company to provide transmission services.

Comment date: October 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25097 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP94–221–003]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 1995.

Take notice that on September 29, 1995, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets proposed to be effective on the dates shown:

June 1, 1995

Substitute Eighth Revised Sheet No. 8
Substitute Tenth Revised Sheet No. 9
Substitute Tenth Revised Sheet No. 13
Substitute Tenth Revised Sheet No. 16
Substitute Twelfth Revised Sheet No. 18

September 1, 1995

Substitute Ninth Revised Sheet No. 8
Substitute Eleventh Revised Sheet No. 9
Substitute Eleventh Revised Sheet No. 13
Substitute Eleventh Revised Sheet No. 16
Substitute Thirteenth Revised Sheet No. 18

ANR states that its filing is necessary to comply with the Commission's July 28, 1995 Letter Order approving the Stipulation and Agreement (Stipulation) filed by ANR herein on May, 8, 1995. Except for certain discrete eligibility issues, the Stipulation resolved ANR's recovery of Gas Supply Realignment (GSR) costs by, inter alia, redetermining ANR's GSR Reservation Surcharges, and adjusting Rate Schedule ITS and Rate Schedule FTS–2 overrun rates effective June 1, 1995.

ANR states that all of its FERC Gas Tariff, Second Revised Volume No. 1 customers and interested State Commissions have been mailed a copy of this filing.

Any person desiring to protest said filing should file a protest with the Commission, 825 North Capitol Street, NE, Washington, DC 20426 in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25105 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–5–000]

Carnegie Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 1995.

Take notice that on October 2, 1995, Carnegie Interstate Pipeline Company (CIPCO) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet:

Third Revised Sheet No. 7

CIPCO proposed that the tariff sheet become effective on November 1, 1995.

CIPCO states that this is its Annual filing pursuant to Section 32.2 of the General Terms and Conditions of its FERC Gas tariff to reflect prospective changes in transportation costs associated with unassigned upstream capacity held by CIPCO on Texas Eastern Transmission Corporation for the 12-month period commencing November 1, 1995 and under-recovered Transportation Costs for the period October 30, 1994 to August 31, 1995. The filing reflects a Transportation Cost Rate (''TCR'') of $1.5249, consisting of a TCR Adjustment of $1.4376 and a TCR Surcharge of $0.0873.

CIPCO states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25115 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–178–006]

Colorado Interstate Gas Company; Notice of Filing of Refund Report

October 4, 1995.

Take notice that on September 29, 1995, Colorado Interstate Gas Company (CIG) filed a refund report in Docket Nos. RP89–178–000, TM90–4–32, TM90–5–32 and TM90–6–32.

CIG states that the filing and refunds were made to comply with the Commission's order on compliance filing dated may 31, 1994, order on rehearing dated December 20, 1994 and order denying rehearing and accepting compliance filing dated April 4, 1995 issued to Northwest Pipeline Corporation in Docket No. RP92–229.

CIG states that copies of CIG's filing have been served on CIG's jurisdictional customers, interested state commissions, and all parties to the proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211). All such protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25102 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–312–004]

Columbia Gulf Transmission Company; Notice of Compliance Filing

October 4, 1995.

Take notice that on October 2, 1995, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing a proposal for recovering amounts of a negative surcharge that were over-refunded between the inception of the negative surcharge on November 1, 1994 and the termination date on August 31, 1995.

Columbia Gulf submits this filing in accordance with Ordering Paragraph (D) of the Federal Energy Regulatory Commission's September 28, 1994 order in Docket Nos. RP94–312–000 and CP94–177–000, referenced in the Office of Pipeline Regulation's September 7, 1995 Letter Order. The aforesaid orders

required Columbia Gulf to submit within 30 days of the cessation of the negative surcharge amortization a true-up calculation and other pertinent information regarding the amount of any difference that exists between the amount it credited to its customers under the surcharge, and the exit fee payment, and explain how it shall refund or bill these differences to its customers.

Columbia Gulf states that copies of its filing is being mailed to each of its firm customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of Columbia Gulf's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25106 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–2–70–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 1995.

Take notice that on October 2, 1995, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective November 1, 1995:

Ninth Revised Sheet No. 018
Ninth Revised Sheet No. 019

Columbia Gulf states that these tariff sheets are being filed to revise the retainage factors applicable to its transportation services in accordance with Section 33 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, which allows Columbia Gulf to periodically adjust its retainage factors. In this filing, Columbia Gulf is adjusting the current company use portion of its retainage factor to reflect a change in the estimate for company use quantities. The unaccounted for and surcharge components have not been adjusted in this filing.

Columbia Gulf states that copies of its filing have been mailed to all firm customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Gulf's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25117 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–138–007]

Florida Gas Transmission Company; Notice of Compliance Filing

October 4, 1995.

Take notice that on September 29, 1995, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Third Revised Sheet No. 120
First Revised Sheet No. 120A
Third Revised Sheet No. 138
Original Sheet No. 138A
First Revised Sheet No. 139
First Revised Sheet No. 140
Second Revised Sheet No. 141
First Revised Sheet No. 142
Second Revised Sheet No. 143
Second Revised Sheet No. 144
Second Revised Sheet No. 145
First Revised Sheet No. 146
Second Revised Sheet No. 147
Second Revised Sheet No. 148
Second Revised Sheet No. 149
Original Sheet No. 149A
Original Sheet No. 149B
Original Sheet No. 149C
Original Sheet No. 149D
Original Sheet No. 149E
Original Sheet No. 149F
First Revised Sheet No. 650
First Revised Sheet No. 651
First Revised Sheet No. 652
First Revised Sheet No. 653
First Revised Sheet No. 654
First Revised Sheet No. 655
Second Revised Sheet No. 659
First Revised Sheet No. 660
First Revised Sheet No. 700

On September 1, 1994, FGT filed a Stipulation and Agreement of Settlement (Settlement) and pro forma tariff sheets setting forth new procedures for the interruption of interruptible transportation and the curtailment of firm service during periods of diminished capacity on FGT's system. The Settlement was supported by most of the customers on FGT's system. The issues resolved by the Settlement had been severed for separate resolution from other issues contained in FGT's Order No. 636 restructuring proceeding.

On January 12, 1995 the Commission issued an order which accepted and clarified the Settlement and required FGT to make certain changes relative to curtailment and scheduling. On February 10 and March 8, 1995, FGT filed additional and revised pro forma tariff sheets which were subsequently approved by Commission order dated April 26, 1995. The April 26 order required FGT to resubmit tariff sheets within 10 days, with the correct pagination, an effective date of November 1, 1995, and in an electronic format. In response to an FGT Request for Rehearing filed on May 5, 1995, the Commission issued an order on rehearing on June 2, 1995, which removed the 10 day filing requirement and instead required FGT to file tariff sheets no later than 30 days prior to the November 1, 1995 effective date.

In the instant filing, FGT is submitting tariff sheets as required by the June 2, 1995 Commission order on rehearing. Specifically, FGT is filing curtailment and related scheduling procedures in Section 17.A and Section 10, respectively of its General Terms and Conditions. In addition, FGT is filing an updated Index of Requirements by End-Use Priority for Priorities 1 and 2 only (the exempt categories pursuant to the Settlement) as verified by the Data Verification Committee.

Finally, FGT is eliminating the Index of Entitlements. This section is no longer relevant since FGT implemented Order No. 636 on November 1, 1993. FGT's currently effective Original Sheet No. 700 provides that the Index of Entitlements will be filed upon execution of all agreements. However, FGT has entered into no sales agreements nor has it made any sales after implementing Order No. 636. The Essential Agricultural Priority 2 capacity data is included in the updated Index of Requirements by End-Use Priority tariff sheets filed herewith.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE.,

Washington, DC 20426 in accordance with Section 385.211 of the Commission's Rules and Regulations. All protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25103 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–373–002]

National Fuel Gas Supply Corp.; Notice of Compliance Filing

October 4, 1995.

Take notice that on October 2, 1995, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Substitute Fifth Revised Sheet Nos. 237A and 237B, to be effective August 1, 1995.

National states that these tariff sheets are submitted under protest. National states that the tariff sheets reflect the recalculation of refunds of Account Nos. 191 and 186-related dollars received from certain of National's former upstream pipeline-suppliers, as required by the Commission's Letter Order issued September 15, 1995.

National further states that it is also submitting worksheets to clarify the calculations made in the tariff sheets, and to clarify the interest calculations.

National states that copies of this filing were served upon the company's jurisdictional customers and upon the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protest should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25110 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–792–000]

National Fuel Gas Supply Corp.; Notice of Request Under Blanket Authorization

October 4, 1995.

Take notice that on September 29, 1995, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP95–792–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a new sales tap under National's blanket certificate issued in Docket No. CP83–4–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

National proposes to construct and operate a new sales tap in Warren, Pennsylvania, for delivery of natural gas to a new end-user shipper, United Refining Company (United Refining). National projects that deliveries for this tap would amount to 182,000 Dth annually of firm transportation and 360,000 Dth annually of interruptible transportation, which would have a minimal impact on National's peak day and annual deliveries. Natural states that United Refining would reimburse National for the actual cost of constructing the sales tap, estimated to be $80,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25098 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP90–2086–002]

National Fuel Gas Supply Corporation; Notice of Petition to Amend

October 4, 1995.

Take notice that on September 21, 1995, as supplemented on September 29,1 995, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, NY 14203, filed with the Commission in Docket No. CP90–2086–002 a petition pursuant to Section 7(c) of the Natural Gas Act (NGA) requesting authority to amend its certificate of public convenience and necessity authorizing operation of the Limestone Storage Field (Limestone) on a permanent basis, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

By order dated November 28, 1990, in Docket No. CP90–2086–000, the Commission issued to National Fuel a certificate authorizing the operation of Limestone, then known as the Allegany State Park Storage Field, for a period of three years. By order dated November 4, 1993, the Commission extended the term of National Fuel's authorization to operate Limestone to the earlier of December 31, 1995, or the effective date of a permanent certificate.

National Fuel states that it is now seeking permanent authorization to operate Limestone as an interstate storage facility pursuant to Section 7 of the NGA. National Fuel says that a permanent certificate for Limestone will enable National Fuel to provide long term storage services for National Fuel Gas Distribution Corporation under National Fuel's ESS rate schedule. National Fuel does not propose to construct or acquire any new facilities at this time.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 25, 1995, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the

appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, ti will be unnecessary for National Fuel to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25099 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–1–000]

Northern Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

October 4, 1995.

Take notice that on October 2, 1995, Northern Natural Gas Company (Northern), tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Fourth Revised Sheet No. 68, with a proposed effective date of November 1, 1995.

The filing, pursuant to Northern's commitment in Docket Nos. RP94–3, RP94–415 and RP95–137, reconciles over and underrecovery of Reverse Auction expenses solely attributable to an increase in FERC interest rates and adjusts accordingly the direct bill amounts by shipper. Northern has filed Fourth Revised Sheet No. 68 to reflect these amounts in its Tariff and will commence billing such amounts effective November 1, 1995.

Northern states that copies of this filing were served upon the company's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 12, 1995. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25111 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–3–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 1995.

Take notice that on October 2, 1995, Northern Natural Gas Company (Northern), tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective November 1, 1995:

5 Revised 17 Revised Sheet No. 50
5 Revised 17 Revised Sheet No. 51
24 Revised Sheet No. 53

Northern states that this filing establishes the 1995–1996 SBA Cost Recovery surcharge rates.

Northern states that copies of this filing were served upon the company's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests must be filed on or before October 12, 1995. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25113 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–2–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 1995.

Take notice that on October 2, 1995, Northern Natural Gas Company (Northern), tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, proposed to be effective November 1, 1995:

First Revised Sheet No. 211

Northern states that the above tariff sheet is being filed to clarify Northern's general provision in its tariff regarding meters.

Northern states that copies of this filing were served upon the company's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 385.44 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests must be filed on or before October 12, 1995. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25112 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–2–28–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 1995.

Take notice that on September 29, 1995, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the

revised tariff sheets listed on Appendix A to the filing, with a proposed effective date of November 1, 1995.

Panhandle states that this filing is made in accordance with Section 24 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1. Panhandle states that the revised tariff sheets filed herewith reflect the following changes to the Fuel Reimbursement Percentages:

(1) A 4.59% increase in the Gathering Fuel Reimbursement Percentage;

(2) A (.20%) decrease in the Field Zone Fuel Reimbursement Percentage;

(3) A 0.09% increase in the Market Zone Fuel Reimbursement Percentage;

(4) A (.26%) decrease in the Injection and (.26%) decrease in the Withdrawal Field Area Storage Reimbursement Percentages; and

(5) A (.53%) decrease in the Injection and (.26%) decrease in the Withdrawal Market Area Storage Fuel Reimbursement Percentages.

Panhandle states that copies of this filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25116 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–112–011]

Tennessee Gas Pipeline Co.; Notice of Filing

October 4, 1995.

Take notice that on September 29, 1995, Tennessee Gas Pipeline Company (Tennessee) filed the revised tariff sheets in Appendix A, to be effective February 1 or July 1, 1995, as indicated. Tennessee states that this filing is being made in conformance with Ordering Paragraph (B) of the Commission's August 31, 1995 order in this proceeding.

Tennessee further states that the motion rates contained in the revised tariff sheets reflect all necessary rate reductions resulting from the truing up of the estimated plant balances contained in Tennessee's June 30, 1995 Motion Rate Filing to the actual plant balances as of that date.

Tennessee states that copies of the filing have been mailed to all parties on the official service list in this proceeding, affected customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

Appendix A

Revised Tariff Sheets

Fifth Revised Volume No. 1

Tariff Sheet—Effective Date

Substitute Second Revised Sheet No. 26—February 1, 1995
Substitute Second Revised Sheet No. 26A—July 1, 1995
Second Revised Sheet No. 26B—July 1, 1995
Substitute First Revised Sheet No. 26B—February 1, 1995

Original Volume No. 2

Tariff Sheet—Effective Date

Substitute Thirty-First Revised Sheet No. 5—July 1, 1995
Substitute First Revised Substitute 30th Revised Sheet No. 5—February 1, 1995

[FR Doc. 95–25107 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–4–000]

Transcontinental Gas Pipe Line; Notice of Proposed Changes in FERC Gas Tariff

October 4, 1995.

Take notice that on October 2, 1995, Transcontinental Gas Pipe Line Corporation (Transco) herewith submits for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in the attached appendices. Such tariff sheets are proposed to be effective November 1, 1994 and November 1, 1995.

Transco states that the purpose of the instant filing is to revise currently effective tariff provisions to (i) correct various spelling, punctuation, wording and reference errors, (ii) terminate FS–G sales service, (iii) clarify the demand charge adjustment calculation under Rate Schedule LG–A, (iv) modify procedures for the retention of measurement records, (v) update provisions addressing the odorization of gas, (vi) clarify that a firm shipper has the right to deliver gas to secondary delivery point(s) located either upstream or downstream of traditional delivery points, (vii) revise the criteria for the Seller's selection of best bids to allow for multiple winners to fully allocate capacity offered for release, (viii) modify storage inventory transfer provisions to provide for a cash-out mechanism (ix) modify Rate Schedule IT to eliminate the provisions for automatic termination of a non-executed service agreement or a service agreement that does not flow gas within 15 days and (x) update the Index or Purchasers, all as further described in the appendices attached to the filing.

Transco states that it is serving copies of the instant filing to its customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with 18 CFR 358.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25114 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–109–003]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 4, 1995.

Take notice that on September 29, 1995, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Third Revised Sheet No. 37C and Substitute Third Revised Sheet No. 40C, which tariff sheets are proposed to be effective November 1, 1995.

On July 11, 1994, the Commission issued a ''Preliminary Determination on Nonenvironmental Issues'' approving the SE95/96 project, including the initial rates proposed therein, subject to a final order addressing environmental issues. On December 21, 1994 the Commission issued an ''Order Issuing Certificate'' which granted final certificate authorization for the SE95/96 project (December 21 Order). Ordering paragraph (C) of the Commission's December 21 Order directed Transco to file a separately stated incremental rate under Rate Schedule FT for the SE95/96 firm transportation service. In compliance with such directive Transco submits herewith Substitute Third Revised Sheet No. 40C which sets forth the initial incremental reservation rate of $11.52 per Mcf for SE95/96 firm transportation service. In addition, all applicable surcharges under Rate Schedule FT shall apply to SE95/96 firm transportation service.

In recognition that SE95/96 firm transportation capacity is eligible to be released in accordance with section 42 of the General Terms and Conditions of Transco's FERC GAs Tariff, Transco is filing Substitute Third Revised Sheet No. 37C to set forth the rates and charges underRate Schedule FT–R applicable to capacity released under Transco's SE95/96 incremental firm transportation service.

Transco states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rule's and Regulations. All such protest should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25100 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–165–017]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 1995.

Take notice that On September 29, 1995, Trunkline Gas Company (Trunkline) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets, listed on Appendix A attached to the filing. Trunkline requests an effective date of November 1, 1995.

Trunkline states that this filing is being made in accordance with the provisions of Article III, Section 5 and Article VII, Section 4 of the January 25, 1993 Stipulation and Agreement (Settlement) approved by the Commission in the referenced proceedings.

Trunkline further states that Article III, Section 5(a) of the Settlement permitted Trunkline to include in its cost of service and resulting rates $1,173,858 per year for three years, commencing November 1, 1992, for its allocated portion of expenses incurred by October 31, 1992 for the consolidation of offices from Kansas City, Missouri to Houston, Texas. It bears noting that this Section also established for other discrete costs a separate ten year amortization, the term of which has not expired and which is not the subject of this filing.

Trunkline also states that Article III, Section 5(b) of the Settlement required Trunkline to file at least thirty days prior to the conclusion of the specified amortization period for these costs to remove from its then-effective rates the component associated with such amortization. That Section also provided that the removal would be effective upon conclusion of the amortization period without suspension or condition.

Trunkline requests waiver of any provisions of the Commission's Regulations which may be necessary to make the tariff sheets and rates submitted herewith effective November 1, 1995.

Trunkline states that copies of this filing have been served on all participants in the proceedings, jurisdictional customers and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (19 CFR 385.211). All such protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25104 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–190–003]

Williams Natural Gas Co; Notice of Compliance Filing

October 4, 1995.

Take notice that on September 29, 1995, Williams Natural Gas Company (WNG) tendered for filing additional information in compliance with Commission Order on Rehearing, Compliance Filing, and Additional Comments issued September 21, 1995 (September 21 order) in the above referenced docket.

WNG states that the September 21 order directed it to file additional data and information supporting its calculations of the jurisdictional percentages reflected in its March 1, 1995 filing within 30 days of the issuance of the order. In compliance with the order, WNG is filing a calculation of the 1993 sales percentage.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of WNG's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the

Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

FR Doc. 95–25108 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–193–004]

Williston Basin Interstate Pipeline Co.; Notice of Compliance Filing

October 4, 1995.

Take notice that on September 29, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff.

Williston Basin states that, in accordance with the Commission's September 14, 1995 Order, the revised tariff sheets modify the time allowed for a shipper to execute a Service Agreement once it has been tendered to the shipper by Williston Basin.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25109 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–1–000]

Williston Basin Interstate Pipeline Company; Notice of Filing

October 4, 1995.

Take notice that on October 2, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with the proposed effective date of October 2, 1995:

Tenth Revised Sheet No. 785
Eleventh Revised Sheet Nos. 786–788
Twelfth Revised Sheet Nos. 789–790
Eleventh Revised Sheet No. 791
Twelfth Revised Sheet Nos. 792–795
Seventh Revised Sheet No. 796

Williston Basin states that the revised tariff sheets are being filed to update its Master Receipt Point List.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25101 Filed 10–10–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5313–9]

Acid Rain Program: Notice of State Acid Rain Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Title IV of the Clean Air Act requires EPA to establish the Acid Rain Program to reduce the adverse environmental and public health effects of acidic deposition. Under titles IV and V of the Act, State and local permitting authorities develop and administer acid rain programs as part of their title V operating permits programs. The State and local permitting authorities listed in this notice have submitted acid rain programs for EPA review that have subsequently been determined to be acceptable to the EPA Administrator as part of their title V operating permits programs. This notice is for informational purposes only and does not supplant any other **Federal Register** notices under title V.

FOR FURTHER INFORMATION CONTACT: Robert Miller, U.S. EPA, Acid Rain Division (6204J), 401 M St. SW., Washington, DC 20460, (202) 233–9077.

SUPPLEMENTARY INFORMATION: In Phase I of the Acid Rain Program (1995 through 1999), EPA issues Phase I acid rain permits and is the permitting authority for certain acid rain affected sources, most of which are coal burning utilities. In Phase II of the Acid Rain Program (beginning in the year 2000 and continuing into perpetuity), state and local permitting authorities are required under titles IV and V of the Act to act as the permitting authority for acid rain affected sources in Phase II and issue acid rain permits as part of their title V operating permits programs. Acid rain affected sources must submit their initial Phase II acid rain permit applications to the appropriate permitting authority no later than January 1, 1996. Initial acid rain permits must be issued to all acid rain affected sources no later than December 31, 1997.

The following state or local permitting authorities have submitted acid rain programs that are acceptable to the EPA Administrator as part of their title V operating permits programs:

Region 1

The Department of Environmental Protection, in the state of Massachusetts;

The Department of Environmental Management, in the state of Rhode Island;

The Department of Environmental Conservation, in the state of Vermont.

Region 2

The Department of Environmental Protection, in the state of New Jersey.

Region 4

The Department of Environmental Management, in the state of Alabama;

The Department of Environmental Protection, in the state of Florida;

The Air Pollution Control District of Jefferson County, in the state of Kentucky;

The Department of Health and Environmental Control, in the state of South Carolina;

The Department of Environment and Conservation, in the state of Tennessee;

The Memphis and Shelby County Health Department, in the state of Tennessee.

Region 5

The Department of Environmental Management, in the state of Indiana;

The Department of Environmental Quality, in the state of Michigan;

The Minnesota Pollution Control Agency, in the state of Minnesota;

The Department of Natural Resources, in the state of Wisconsin.

Region 6

The Environment Department, in the state of New Mexico;

The Natural Resource Conservation Commission, in the state of Texas.

Region 7

City of Omaha Air Quality Control Section, in the state of Nebraska;

Lincoln-Lancaster County Health Department, in the state of Nebraska.

Region 8

The Department of Public Health and Environment, in the state of Colorado;

The Department of Health and Consolidated Laboratories, in the state of North Dakota;

The Department of Environment and Natural Resources, in the state of South Dakota.

Region 9

Maricopa County Environmental Management and Transportation Agency, in the state of Arizona;

Imperial County Air Pollution Control District, in the state of California;

Mojave Desert Air Quality Management District, in the state of California;

North Coast Unified Air Quality Management District, in the state of California;

San Diego County Air Pollution Control District, in the state of California;

San Luis Obispo County Air Pollution Control District, in the state of California;

South Coast Air Quality Management District, in the state of California;

Ventura County Air Pollution Control District, in the state of California;

Clark County Health District, in the state of Nevada.

Region 10

The Division of Environmental Quality, in the state of Idaho.

Dated: October 3, 1995.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 95–25180 Filed 10–10–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5313–8]

Acid Rain Program: Notice of Annual Adjustment Factors for Excess Emissions Penalty

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of annual adjustment factors for excess emissions penalty.

SUMMARY: Under the Acid Rain Program, affected units must hold enough allowances to cover their sulfur dioxide emissions and meet an emission limit for nitrogen oxides. Under 40 CFR 77.6, units that do not meet these requirements must pay a penalty without demand to the Administrator based on the number of excess tons emitted times $2000 as adjusted by an annual adjustment factor that must be published in the **Federal Register**.

The annual adjustment factor for adjusting the penalty for excess emissions of sulfur dioxide under 40 CFR Part 77 for compliance year 1995 is 1.196. This value is derived from the Consumer Price Index for 1990 and 1995, as defined in 40 CFR 72.2, and corresponds to a penalty of $2392 per excess ton of sulfur dioxide emitted.

The annual adjustment factor for adjusting the penalty for excess emissions of sulfur dioxide and nitrogen oxides under 40 CFR Part 77 for compliance year 1996 is 1.227. This value is derived from the Consumer Price Index for 1990 and 1996, as defined in 40 CFR Part 72, and corresponds to a penalty of $2454 per excess ton of sulfur dioxide or nitrogen oxides emitted.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 at (202) 233–9089.

Dated: October 5, 1995.

Larry F. Kertcher,

Acting Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 95–25181 Filed 10–10–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

October 3, 1995.

The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c)ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments should be submitted on or before December 11, 1995. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

OMB Approval Number: 3060–0298.

Title: Part 61 - Tariffs (Other than the Tariff Review Plan).

Form No.: N/A.

Type of Review: Revision of existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 2,000.

Estimated Time Per Response: 203 hours.

Total Annual Burden: 972,423.

Needs and Uses: Part 61 rules are designed to ensure that all tariffs filed by common carriers are formally sound, well organized, and provide the Commission and the public with sufficient information to determine the justness and reasonableness as required by the Act. The Commission is modifying Part 61 to implement a separate basket for LEC provided video dialtone service. Video dailtone service differs sufficiently from basic telephone service in the other price cap baskets to warrant the creation of its own basket. The tariffs and cost support information accompanying them will be used by the FCC staff to ensure that the tariff rates to be paid for basic video dialtone services are just reasonable, and nondiscriminatory, as Section 201 and 202 of the Communications Act require.

OMB Approval Number: 3060–0540.

Title: Tariff Filing Requirement for Nondominant Common Carriers.

Form No.: N/A.

Type of Review: Revision of existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 2,000.

Estimated Time Per Response: 10.5 hours.

Total Annual Burden: 21,000.

Needs and Uses: 47 CFR Part 61 Section 61.20–61.23 contain tariff filing

requirements for nondominant common carriers. The purpose of the filing requirement is so that the Commission, customers, and interested parties can ensure that the service offerings of communications common carriers comply with the requirements of the Communications Act. The Commission recently modified the tariff filing rules for domestic, nondominant common carriers to remove the provision permitting such carriers to file rates in a manner of the carrier's choosing, including as a reasonable range of rates. Domestic, nondominant common carriers must file tariffs containing specific rates.

OMB Approval Number: 3060–0531.

Title: Parts 1 and 21 Redesignating the 27.5 GHz Frequency Band, Establishing Rules and Policies for Local Multipoint Distribution (NPRM CC Docket No. 92–297).

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit; State, Local or Tribal Governments; Small businesses or organizations.

Number of Respondents: 1,476.

Estimated Time Per Response: 8 hours.

Total Annual Burden: 11,808 hours

Needs and Uses: The NPRM solicits public comment to amend 47 CFR Parts 1 and 21 to redesignate the 27.5 - 29.5 GHz frequency and to establish rules and policies for the Local Multipoint Distribution Service (LMDS). The information requested will be used by FCC personnel to determine whether the applicant is qualified legally and technically to be licensed to use the radio spectrum.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25071 Filed 10–10–95; 8:45 am]

BILLING CODE 6712–01–F

[DA 95–2017]

Limited Waiver of Deadline for Completion of Cellular Divestiture for PCS Providers

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief, Wireless Telecommunications Bureau released this Order granting a request for a limited waiver of the Commission's Rules regarding deadline for completion of cellular divestiture for PCS providers filed by WirelessCo, L.P., PhillieCo, L.P., and Sprint Corporation (''Petitioners''), file number CWD–95–7. As a result of this order, Petitioners have an extension of the post-auction divestiture time period for one year, until September 21, 1996, to divest Sprint's prohibited cellular interests and come into compliance with the PCS/cellular cross-ownership rule. This waiver is conditioned upon the Petitioners demonstrating that the activities of Sprint Cellular and Sprint Telecommunications Venture will be separated completely during the waiver period to prevent anticompetitive practices. A certified plan demonstrating this separation must be submitted to the Wireless Telecommunications Bureau's Commercial Wireless Division within sixty (60) days of the publication of this Order in the **Federal Register**.

DATES: December 11, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lisa Warner, (202) 418–0620, Wireless Telecommunications Bureau, Commercial Wireless Division.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Bureau's Order, in Re Request of WirelessCo, L.P., PhillieCo, L.P., and Sprint Corporation for limited waiver of Section 24.204 of the Commission's Rules, File No. CWD–95–7, adopted September 21, 1995, and released September 21, 1995. The complete text of this Order is available for inspection and copying during normal business hours in the Legal Branch, Room 7130, 2025 M Street, N.W., Washington, D.C.

Synopsis of Order

1. This Order resolves the July 26, 1995, request by WirelessCo, L.P., PhillieCo, L.P., and Sprint Corporation for a limited waiver of the deadline for completion of cellular divestiture for PCS providers set forth in Section 24.204 of the Commission's rules, 47 C.F.R. § 24.204.

2. Section 24.204 prohibits entities with an attributable ownership interest in a cellular licensee (20 percent or more) from obtaining a 30 MHz broadband PCS license if the populations of the system's geographic service area and PCS license areas overlap significantly.

3. As a result of its PCS activities, Spring Telecommunications Venture (a new subsidiary of Sprint and a partner in WirelessCo and in PhillieCo) have a ''significant overlap'') in several markets which requires divestiture of Sprint's cellular interests. The Commission's rules requires divestiture within ninety (90) days of the final license grant, or in this instance on or before September 21, 1995. Petitioners request a extension until September 21, 1996, to complete all actions pertaining to the divestiture including obtaining a letter ruling from the Internal Revenue Service.

4. The Commission granted Petitioners a limited waiver in accordance with Section 24.819(a)(1)(i) of the Commission's rules. 47 CFR 24.819(a)(1)(i). The Commission stated that the underlying purpose of the rule would not be served in this instance by its strict application to Petitioners. In addition, The Commission found that grant of the waiver would be in the public interest because a spin-off of the entire Sprint Cellular company to its shareholders is far more pro-competitive than the more limited divestiture required by Section 24.204 of the Commission's rules.

Grant of the waiver is conditioned upon Petitioners submitting a certified plan demonstrating complete separation between Sprint Cellular and Sprint Telecommunications Venture during the waiver period.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25140 Filed 10–10–95; 8:45 am]

BILLING CODE 6712–01–M

Public Safety Wireless Advisory Committee; Subcommittee Meetings

AGENCIES: The National Telecommunications and Information Administration (NTIA) and the Federal Communications Commission (FCC).

ACTION: Notice of Next Meetings of the Spectrum Requirements, Interoperability, Technology, Operational Requirements, and Transition Subcommittees of the Public Safety Wireless Advisory Committee.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the next meetings of the five Subcommittees of the Public Safety Wireless Advisory Committee. The NTIA and the FCC established a Public Safety Wireless Committee and Subcommittees to prepare a final report to advise the NTIA and the FCC on operational, technical and spectrum requirements of Federal, state and local Public Safety entities through the year 2010. All interested parties are invited to attend and to participate in the next round of meetings of the Subcommittees.

DATES: October 26, 27, and 28, 1995 (Thursday through Saturday).

ADDRESSES: Camp Dodge Theater, Camp Dodge, 7700 NW. Beaver Drive, Johnston, Iowa 50131 (located northwest of Des Moines, Iowa).

SUPPLEMENTARY INFORMATION: The five Subcommittees of the Public Safety Wireless Advisory Committee will hold consecutive meetings over a three day period, Thursday through Saturday, October 26, 27, and 28, 1995. The expected arrangement of the meetings, which is subject to change at the time of the meetings, is as follows:

October 26, 1995 The *Operational Requirements* and *Transition* Subcommittees will meet consecutively starting at 9:00 a.m.

October 27, 1995 The *Interoperability* and *Spectrum Requirements* Subcommittees will meet consecutively starting at 9:00 a.m.

October 28, 1995 The *Technology* Subcommittee will meet starting at 9:00 a.m.

The agenda for each meeting is as follows:

1. Welcoming Remarks
2. Approval of Agenda
3. Administrative Matters
4. Work Program/Organization of Work
5. Meeting Schedule
6. Agenda for Next Meeting
7. Other Business
8. Closing Remarks

The tentative schedule and general location of future meetings of the Subcommittees of Public Safety Wireless Advisory Committee is as follows:

December 13 and 14, 1995, in Washington, DC

January 11, 12, and 13, 1996, at the University of California (Berkley Campus)

February 29, March 1 and 2, 1996, in Orlando, Florida

The tentative schedule and general location of the next full meeting of the Public Safety Wireless Advisory Committee is: December 15, 1995, in Washington, DC.

The Co-Designated Federal Officers of the Public Safety Wireless Advisory Committee are William Donald Speights, NTIA, and John J. Borkowski, FCC. For public inspection, a file designated WTB–1 is maintained in the Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, Room 8010, 2025 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For information regarding the Subcommittees, contact:

Interoperability Subcommittee: James E. Downes at 202–622–1582

Operational Requirements Subcommittee: Paul H. Wieck at 515–281–5261

Spectrum Requirements Subcommittee: Richard N. Allen at 703–630–6617

Technology Subcommittee: Alfred Mello at 401–738–2220

Transition Subcommittee: Ronnie Rand at 904–322–2500 or 800–949–2726 ext. 600

For information regarding accommodations and transportation, contact: Deborah Behlin at 202–418–0650 (phone), 202–418–2643 (fax), or dbehlin@fcc.gov (email). You may also contact Ms. Behlin for general information concerning the Public Safety Wireless Advisory Committee. Information is also available from the Internet at the Public Safety Wireless Advisory Committee homepage (http://pswac.ntia.doc.gov).

Federal Communications Commission.

Herbert W. Zeiler,

Deputy Chief, Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 95–25245 Filed 10–10–95; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 2103]

Petition for Reconsideration of Actions in Rulemaking Proceedings

October 5, 1995.

Petition for reconsideration has been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed October 26, 1995. See Section 1.4(b) (1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Caldwell, TX, et. al) (MM Docket No. 91–58, RM–7419, RM–7797, RM–7798)

Number of Petition Filed: 1

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25143 Filed 10–10–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200960

Title: Port Authority of New York & New Jersey/CSAV Container Incentive Agreement

Parties: Port Authority of New York & New Jersey (''Port'') CSAV

Synopsis: The Agreement provides for the Port to pay CSAV an incentive of $15.00 for each import container and $25.00 for each export container loaded or unloaded from a vessel at the Port's marine terminals during calendar year 1995, provided each container is shipped by rail to or from points more than 260 miles from the Port.

Dated: October 4, 1995.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–25119 Filed 10–10–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Exincargo, Inc., 8213 NW. 30th Terrace, Miami, FL 33122, Officers: Tell

Gonzalez, President, Alegandro Gutierrez, Director
B & A Express, 24220 Bryn Athyn Way, Diamond Bar, CA 91765, Brian Min, Sole Proprietor
Atlantis Forwarding, Inc., 505 North Belt East, Suite 442, Houston, TX 77063, Officers: Roger Vieth, President, Patricia Dukes, Vice President
Xonex International, P.O. Box 3043, Wilmington, DE 19804, Officers: Katherine E. Holden, President, William A. Larmore, III, Vice President
Intermar International Inc., 9300 N.W. 58th Street, Suite 210, Miami, FL 33178, Officers: Angelo Carrasquillo, President, Luis A. Camacho, Vice President

Dated: October 4, 1995.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–25118 Filed 10–10–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of August 22, 1995

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on August 22, 1995.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests a strengthening in the expansion of economic activity in the current quarter from the weak second-quarter pace. Nonfarm payroll employment increased in June and July after declining in May; the advance was held down by continuing employment losses in manufacturing. The civilian unemployment rate in July was at its second-quarter average of 5.7 percent. Industrial production changed little in recent months after falling earlier while capacity utilization was down somewhat further. Total retail sales have risen appreciably on balance since early spring, but they edged down in July, reflecting weakness in motor vehicles. Housing starts were up sharply in July after changing little in previous months. Orders for nondefense capital goods still point to considerable further expansion of spending on business equipment over coming months; nonresidential construction has continued to trend appreciably higher. The nominal deficit on U.S. trade in goods and services widened in the second quarter from its average rate in the first quarter. After increasing at elevated rates in the early part of the year, consumer and producer prices have risen more slowly in recent months. Advances in labor compensation costs have remained subdued.

Short-term interest rates have posted mixed changes since the Committee meeting on July 5-6, while intermediate- and long-term rates have risen appreciably. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies appreciated substantially over the intermeeting period, with the gain occurring since the beginning of August.

M2 and M3 continued to register sizable increases in July and appeared to be expanding considerably further in August. For the year through July, M2 expanded at a rate in the upper half of its range for 1995 and M3 grew at a rate above its upwardly revised range. Total domestic nonfinancial debt has grown at a rate in the upper half of its monitoring range in recent months.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the range it had established on January 31-February 1 for growth of M2 of 1 to 5 percent, measured from the fourth quarter of 1994 to the fourth quarter of 1995. The Committee also retained the monitoring range of 3 to 7 percent for the year that it had set for growth of total domestic nonfinancial debt. The Committee raised the 1995 range for M3 to 2 to 6 percent as a technical adjustment to take account of changing intermediation patterns. For 1996, the Committee established on a tentative basis the same ranges as in 1995 for growth of the monetary aggregates and debt, measured from the fourth quarter of 1995 to the fourth quarter of 1996. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, slightly greater reserve restraint or slightly lesser reserve restraint would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with more moderate growth in M2 and M3 over coming months.

By order of the Federal Open Market Committee, October 4, 1995.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 95-25185 Filed 10-10-95; 8:45 am]

BILLING CODE 6210-01-F

[1] Copies of the Minutes of the Federal Open Market Committee meeting of August 22, 1995, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

Boatmen's Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a

hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 3, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Boatmen's Bancshares, Inc., and Acquisition Sub, Inc., both of St. Louis, Missouri; to acquire 100 percent of the voting shares of Fourth Financial Corporation, Wichita, Kansas, and thereby indirectly acquire Bank IV, National Association, Wichita, Kansas; and Bank IV Oklahoma, National Association, Tulsa, Oklahoma.

In connection with this application, Applicants have applied to acquire Bank IV Community Development Corporation, Wichita, Kansas; and thereby engage in making equity and debt investments in corporations or projects designed primarily to promote community welfare, such as the economic rehabilitation and development of low-income areas by providing housing, services or jobs for residents, pursuant to § 225.25(b)(6) of the Board's Regulation Y; Fourth Financial Insurance Company, Wichita, Kansas, and thereby engage in the reinsurance of credit life and accident and health insurance, directly related to an extension of credit by Bank IV Kansas, N.A., Wichita, Kansas, and Bank IV Oklahoma, N.A., Tulsa, Oklahoma, and that is limited to ensuring the repayment of the outstanding balance due on the extension of credit, in the event of the death or disability of the debtor, pursuant to § 225.25(b)(8) of the Board's Regulation Y; Fourth Investment Advisors, Inc., Tulsa, Oklahoma, and thereby engage in providing portfolio investment advice, pursuant to § 225.25(b)(4) of the Board's Regulation Y; Southgate Trust Company, Overland Park, Kansas, and thereby engage in performing functions or activities that maybe performed by a trust company (including activities of a fiduciary, agency, or custodial nature), in the manner authorized by federal or state law, pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Also in connection with this application, Acquisition Sub, Inc., also has applied to become a bank holding company.

2. Mercantile Bancorporation Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of Hawkeye Bancorporation, Des Moines, Iowa, and thereby indirectly acquire The Citizens National Bank of Boone-Stratford, Boone, Iowa; Hawkeye Bank of Ankeny, Ankeny, Iowa; Hawkeye Bank of Cedar Rapids, Cedar Rapids, Iowa; Hawkeye Bank of Centerville, N.A., Centerville, Iowa; Hawkeye Bank of Chariton, Chariton, Chariton, Iowa; Hawkeye Bank of Clay County, Spencer, Iowa; Hawkeye Bank of Clinton County, N.A., Clinton, Iowa; Hawkeye Bank of Council Bluffs, Council Bluffs, Iowa; Hawkeye Bank of Des Moines, Des Moines, Iowa; Hawkeye Bank of Dubuque, N.A., Dubuque, Iowa; Hawkeye Bank of Humboldt County, Humboldt, Iowa; Hawkeye Bank of Jasper County, Newton, Iowa; Hawkeye Bank of Lyon County, Rock Rapids, Iowa; Hawkeye Bank of Maquoketa, Maquoketa, Iowa; Hawkeye Bank of Marshalltown, Marshalltown, Iowa; Hawkeye Bank of Mount Ayr, Mount Ayr, Iowa; Hawkeye Bank of Mt. Pleasant, Mount Pleasant, Iowa; Hawkeye Bank of Onawa, Onawa, Iowa; Hawkeye Bank of Osceola County, N.A., Sibley, Iowa; Hawkeye Bank of Pella, N.A., Pella, Iowa; Hawkeye Bank of Tipton, Tipton, Iowa; Hawkeye Bank of Vinton, Vinton, Iowa; and Hawkeye Bank of Washington County, N.A., Washington, Iowa.

In connection with this application, Applicant also has applied to acquire Hawkeye Guaranteed Loans, Inc., Des Moines, Iowa, and thereby engage in providing funding and servicing for government guaranteed FMHA loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y; and Hawkeye Leasing Corporation, Des Moines, Iowa; and thereby engage in the leasing of commercial equipment, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 4, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-25152 Filed 10-10-95; 8:45 am]

BILLING CODE 6210-01-F

Citicorp, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 24, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York; to engage *de novo* through its subsidiary, Citicorp North America, Inc., New York, New York, in community development activities, such as making equity and debt investments in corporations or projects designed primarily to promote community welfare;, pursuant to § 225.25(b)(6) of the Board's Regulation Y. The geographic scope for these activities is worldwide.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Associated Banc-Corp., Green Bay, Wisconsin; to engage *de novo* through it subsidiary, Associated Banc-Corp Services, Inc., Green Bay, Wisconsin, in data processing activities, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 4, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-25153 Filed 10-10-95; 8:45 am]

BILLING CODE 6210-01-F

Mercantile Bancorporation, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 24, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Mercantile Bancorporation, Inc., St. Louis, Missouri; to acquire Security Bank of Conway, F.S.B., Conway, Arkansas, and thereby engage in owning and operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y. The geographic scope for these activities is Arkansas.

Board of Governors of the Federal Reserve System, October 4, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-25154 Filed 10-10-95; 8:45 am]

BILLING CODE 6210-01-F

Mercantile Bancorporation, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than November 3, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Mercantile Bancorporation, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of First Sterling Bancorp, Inc., Sterling, Illinois, and thereby indirectly acquire First National Bank of Sterling Rock Falls, Sterling, Illinois.

Board of Governors of the Federal Reserve System, October 4, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-25155 Filed 10-10-95; 8:45 am]

BILLING CODE 6210-01-F

Richard J. Thompson; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than October 24, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Richard J. Thompson, Oklahoma City, Oklahoma; to retain a total of 13.74 percent of the voting shares of First Ada Bancshares, Inc., Ada, Oklahoma, and thereby indirectly acquire First National Bank & Trust Co., Ada, Oklahoma.

Board of Governors of the Federal Reserve System, October 4, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-25156 Filed 10-10-95; 8:45 am]

BILLING CODE 6210-01-F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Extension of Comment Deadline and Postponement of Public Hearing for *Supplementary Stewardship Reporting* Exposure Draft.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, information previously announced about the dates for the comment deadline and public hearing on the *Supplementary Stewardship Reporting* Exposure Draft of the Federal Accounting Standards Advisory Board is modified as follows:

- The comment deadline for the *Supplementary Stewardship Reporting* Exposure Draft is hereby extended from October 4 to November 13.
- The public hearing on the *Supplementary Stewardship Reporting*

Exposure Draft is hereby postponed from October 1995 to December 1995, actual date to be announced later in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Ronald S. Young, Executive Staff Director, 750 First ST., NE., Room 1001, Washington, DC 20002, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: October 5, 1995.

Ronald S. Young,

Executive Director.

[FR Doc. 95–25195 Filed 10–10–95; 8:45 am]

BILLING CODE 1610–01–M

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of monthly meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the regular monthly meeting of the Federal Accounting Standards Advisory Board will be held on Thursday, October 19 from 9 a.m. to 4 p.m., continuing on Thursday, October 26, and concluding on Friday, October 27, 1995 at noon in room 7C13 of the General Accounting Office, 441 G St., NW., Washington, DC.

The purpose of the meeting is to discuss issues arising from the September 20 public hearing on *Accounting for Revenue and Other Financing Sources* exposure draft and to discuss any other issues related to the exposure draft.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT:

Ronald S. Young, Executive Staff Director, 750 First St., NE., Room 1001, Washington, DC 20002, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015) (1990).

Dated: October 5, 1995.

Ronald S. Young,

Executive Director.

[FR Doc. 95–25194 Filed 10–10–95; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Filing of Annual Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, as required by the Federal Advisory Committee Act, the agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings during fiscal year 1994. FDA apologizes for the lateness in the filing of these reports due to circumstances beyond the agency's control.

ADDRESSES: Copies are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, 301–443–1751.

FOR FURTHER INFORMATION CONTACT:

Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR 14.60(c), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees that held closed meetings during the period October 1, 1993, through September 30, 1994:

Center for Biologics Evaluation and Research: Biological Response Modifiers Advisory Committee, Blood Products Advisory Committee, Vaccines and Related Biological Products Advisory Committee.

Center for Drug Evaluation and Research: Anesthetic and Life Support Drugs Advisory Committee, Anti-Infective Drugs Advisory Committee, Antiviral Drugs Advisory Committee, Cardiovascular and Renal Drugs Advisory Committee, Dermatologic and Ophthalmic Drugs Advisory Committee (formerly Dermatologic Drugs Advisory Committee), Gastrointestinal Drugs Advisory Committee, Nonprescription Drugs Advisory Committee, Oncologic Drugs Advisory Committee, Pulmonary-Allergy Drugs Advisory Committee.

Center for Devices and Radiological Health: Medical Devices Advisory Committee (consisting of reports for the Anesthesiology and Respiratory Therapy Devices Panel; Circulatory System Devices Panel; Clinical Chemistry and Clinical Toxicology Devices Panel (met jointly with the Microbiology Devices Panel); Dental Products Panel; Ear, Nose, and Throat Devices Panel; Gastroenterology and Urology Devices Panel; General and Plastic Surgery Devices Panel; General Hospital and Personal Use Devices Panel; Hematology and Pathology Devices Panel; Immunology Devices Panel; Neurological Devices Panel; Obstetrics and Gynecology Devices Panel; Ophthalmic Devices Panel; Orthopedic and Rehabilitation Devices Panel; and the Radiological Devices Panel).

Center for Veterinary Medicine: Veterinary Medicine Advisory Committee.

Office of Science: Science Board to the Food and Drug Administration.

National Center for Toxicological Research: Science Advisory Board to the National Center for Toxicological Research.

Annual reports are available for public inspection at: (1) The Library of Congress, Madison Bldg., Newspaper and Current Periodical Reading Room, 101 Independence Ave. SE., rm. 133, Washington, DC; and (2) the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 3, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–25072 Filed 10–10–95; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated Licensing Specialist at the Office of Technology Transfer,

National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7735; fax 301/402–0220). A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Method and Use of Trichohyalin and Transglutaminase-3

Steinert, P.M., Lee, S–C, Kim, I–G (NIAMS)
Filed 30 Apr 93
Serial No. 08/056,200
Licensing Contact: Carol Lavrich, 301/496–7735 ext 287

The invention relates to the discovery of the sequence of a protein involved in forming a structural component of the hair follicle and epidermis: human trichohyalin. Human trichohyalin is an ideal substrate for cross-linking to other proteins, a reaction that is catalyzed by transglutaminase-3. Trichohyalin used in conjunction with transglutaminase forms a naturally-occurring proteinaceous gel with potential application in the areas of food production/stabilization, cosmetics and coverage for open wounds and burns. We have demonstrated that, using cloned cDNAs, the combination of human trichohyalin with an enzyme that is capable of cross-linking proteins can produce a stable, quickly-formed proteinaceous gel. This technology may be useful for the treatment of skin diseases and may have benefit as a transglutaminase replacement therapy.

The goal is to use the resources of a collaborator to further develop the manufacturing and purification process to increase yield, to conduct toxicology studies, and to evaluate potential use and efficacy of the compound. It is expected that the collaborator will have the resources, facilities, and capabilities to produce the compound in sufficient quantity and conduct testing of the concepts. [portfolio: Internal Medicine—Miscellaneous]

A New and Distinctive DNA Sequence of E. Coli 0157:H7 and Its Uses for Rapid, Sensitive, and Specific Detection of 0157:H7 and Other Enterohemorrhagic E. Coli

Hall, R.H. and Xu, J–G. (FDA)
Filed 14 Jun 94
Serial No. 08/258,188
Licensing Contact: Girish Barua, 301/496–7735 ext 263

The invention provides isolated nucleic acid sequences corresponding to the EHEC *hlyA* gene, the EHEC *hlyB* gene, and the intergenic region between the *hlyA* gene and the *hlyB* gene which are unique to enterohemorrhagic *E. coli*. It also covers the methods for detecting 0157:H7 and other enterohemorrhagic *E. coli* by targeting the EHEC *hlyA* gene, the *hlyB* gene, fragments and combinations thereof. Such methods rely on nucleic acid probes and amplification primers specific for sequences of *hlyA* and *hlyB* genes. As such, the technology covered in the invention provides nucleic acid probes and amplification primers useful for the rapid, sensitive, and specific amplification for detection of enterohemorrhagic *E. coli* and a detection kit embracing the above aspects. [portfolio: Infectious Diseases—Diagnostics, bacterial]

Chimeric Papillomavirus-Like Particles

Lowy, D.R., Schiller, J.T., Greenstone, H. (NCI)
Filed 6 Oct 94
Serial No. 08/319,467
Licensing Contact: Steven Ferguson, 301/496–7735 ext 266

Human papillomavirus (HPV) infection causes benign epithelial and fibro-epithelial tumors (genital warts), and is implicated as a cause of certain forms of cancer, particularly cervical cancer.

The current invention embodies an improved vaccine against infection by papillomaviruses. Two viral genes, L1 and L2, encode the proteins which give rise to papillomavirus particles. The vaccine embodied herein consists of recombinant papilloma virus-like particles (VLPs), which are chimeras comprised of the L1 capsid protein and an L2 fusion product. The fusion product consists of the L2 capsid protein recombinantly fused to other HPV peptides or proteins. The resulting VLPs exhibit the ability to induce high levels of neutralizing antibodies against papillomavirus infection. The resulting subunit vaccine is believed to demonstrate improved efficacy in preventing HPV infection, compared to VLPs composed of L1 and L2 proteins alone, and may also prove valuable as a therapeutic agent in eliminating pre-existing HPV infection.

In addition, the L2 fusion products can incorporate peptides or proteins of other infectious agents, resulting in VLPs which can immunize recipients against not only HPV infection, but also other, unrelated diseases. [portfolio: Infectious Diseases—Diagnostics, viral, non-AIDS; Infectious Diseases—Vaccines, viral, non-AIDS]

Chiral Separation of Enantiomers by High-Speed Countercurrent Chromatography

Ma, Y., Ito, Y. (NHLBI)
Filed 16 Dec 94
Serial No. 08/357,845
Licensing Contact: David Sadowski, 301/496–7735 ext 288

The preparation of optically active compounds is very important for the development of new biologically active substances. The ability to separate enantiomers is therefore crucial. This invention embodies a chromatographic technique that allows for gram-quantity separation of chiral compounds. This method provides unique advantages over conventional methods in terms of sample size, choice of chiral selectors, and cost-effectiveness. [portfolio: Devices/Instrumentation—Research Tools]

Dated: September 29, 1995.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 95–25082 Filed 10–10–95; 8:45 am]
BILLING CODE 4140–01–P

Notice of Meeting

Notice if hereby given of the meeting of the NIH AIDS Research Program Evaluation Working Group Area Review Panel on Behavioral, Social Science, and Prevention Research on November 2, 1995 from 8:30 a.m. to 5 p.m. at the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC. The meeting will be open to the public from 10 a.m. to 12:30 p.m., and the closed portion will be from 8:30 a.m. to 10 a.m., and 1:30 p.m. to 5 p.m.

The NIH Revitalization Act of 1993 authorizes the Office of AIDS Research (OAR) to evaluate the AIDS research activities of NIH. The NIH AIDS Research Program Evaluation Working Group was established by the OAR to carry out this major evaluation initiative, reviewing and assessing each of the components of the NIH AIDS research endeavor to determine whether those components are appropriately designed and coordinated to answer the critical scientific questions to lead to better treatments, preventions, and a cure for AIDS. Six Area Review Panels were also established to address the following research areas: Natural History and Epidemiology; Etiology and Pathogenesis; Clinical Trials; Drug Discovery; Vaccines; and Behavioral and Social Sciences Research.

The purpose of the meeting is to seek input from individuals and organizations interested in the evaluation of AIDS research in the areas of behavioral, social science, and prevention research. Examples of areas under consideration by the panel include neuropsychological,

psychological, social and cultural determinants of risky sexual and substance use behavior; neuropsychiatric and psychosocial consequences of HIV infection, including stress, coping, caregiving, and social stigma, research methodologies employed in AIDS behavioral research, including quantitative techniques for developing and evaluating preventive interventions; and the utility of AIDS behavioral intervention research to affected communities. The NIH AIDS Research Program Evaluation Working Group will develop recommendations to be made to the Office of AIDS Research Advisory Council that address the overall NIH AIDS research initiatives, both intramural and extramural, and identify long-range goals in the relevant areas of science. These recommendations will provide the framework for future planning and budget development of the NIH AIDS research program.

There will be a closed session from 8:30 a.m. to 10 a.m., and 1:30 p.m. to 5 p.m. to update the Panel members on privileged information on institute and center grant and contract portfolios.

The open session from 10 a.m. to 12:30 p.m. will begin with a brief overview of panel activities by members of the panel. The remainder of the meeting will be devoted to presentations from individuals and organizations. The session is open to the public; however, attendance may be limited by seat availability.

Comments should be confined to statements related to the current status of NIH AIDS research in the areas of primary prevention and behavioral interventions and recommendations for consideration by the panel in assessing and reviewing the relevant research in these areas.

Only one representative of an organization may present oral comments. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations must submit a letter of intent to present comments and three (3) typewritten copies of the presentation, along with a brief description of the organization represented, to the attention of Dr. Judith D. Auerbach, Office of AIDS Research, NIH, 231 Center Drive, MSC 2340, Building 31, Room 4C06, Bethesda, MD 20892–2340, (301) 402–3555, FAX: (301) 402–8638. Letters of intent an copies of presentations must be received no later than 5 p.m. EDT on Monday, October 23.

Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make a brief oral presentation at the conclusion of the meeting, if time permits, and at the discretion of the Chairperson.

Individuals wishing to provide only written statements should send three (3) typewritten copies of their comments, including a brief description of their organization, to the above address no late than 4 p.m. EDT on October 23. Statements submitted after that date will be accepted. They may not, however, be made available to the Area Review Panel prior to the meeting, though they will be provide subsequently as written testimony.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other accommodations, should contact Dr. Auerbach in advance of the meeting.

Dated: October 3, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–25084 Filed 10–10–95; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institutes of Health; Notice of Meeting of the NIH Director's Advisory Panel on Clinical Research

Notice is hereby given that the NIH Director's Advisory Panel on Clinical Research, a group reporting to the Advisory Committee to the Director (ACD), National Institutes of Health (NIH), will meet in public session in Wilson Hall, third floor of the Shannon Building (Building 1) National Institutes of Health, Bethesda, Maryland 20892, On October 31, 1995 from 8:30 a.m. until approximately 3:30 p.m.

The goal of the Panel is to review the status of clinical research in the United States and to make recommendations to the ACD about how to ensure its effective continuance. Topics to be considered at this meeting are funding of the General Clinical Research Centers and the NIH Clinical Center.

Attendance may be limited to seat availability. If you plan to attend the meeting as an observer or if you wish additional information, please contact Richard G. Wyatt, M.D., National Institutes of Health, Building 1, Room 140, 1 Center Drive, MSC 0151, Bethesda, Maryland 20892–0151, telephone (301) 496–4920, fax (301) 402–0027, by October 20, 1995. Individuals who plan to attend and need special assistance, such as sign language interpretation or other special accommodations, should contact Dr. Wyatt in advance of the meeting.

Dated: October 2, 1995.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 95–25083 Filed 10–10–95; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–00; GP6–003]

Notice of Meeting of Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Spokane District.

ACTION: Meeting of Eastern Washington Resource Advisory Council; Spokane, Washington; November 9, 1995.

SUMMARY: A meeting of the Eastern Washington Resource Advisory Council will be held on November 9, 1995, from 9:00 a.m. to 3:30 p.m. at the Bureau of Land Management, Spokane District Office, 1103 N. Fancher, Spokane, Washington, 99212. At an appropriate time, the Council meeting will recess for approximately one hour for lunch. Public comments will be received from 10:00 a.m. to 10:30 a.m. Topics to be discussed are administrative activities of the Council, the Interior Columbia Basin Ecosystem Management Project, and standards and guidelines for livestock grazing of the public lands.

FOR FURTHER INFORMATION CONTACT: Richard Hubbard, Bureau of Land Management, Spokane District Office, 1103 N. Fancher, Spokane, Washington, 99212; or call 509–536–1200.

Dated: October 4, 1995.

Joseph K. Buesing,

District Manager.

[FR Doc. 95–25162 Filed 10–10–95; 8:45 am]

BILLING CODE 4310–33–M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and

suggestions on the requirement should be made directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, telephone 202–395–3470.

Title: Helium End-Use Survey

Abstract: Respondents supply information which will be used by the Bureau of Mines, Division of Helium Field Operations to (a) update current trends in helium usage, (b) predict future domestic helium demands, and (c) determine the prospects of potential suppliers entering into the helium market. Results of this information are made available to the general public in the Annual Helium Commodity Review

Bureau form number: None

Frequency: Every 5 years

Description of respondents: Helium distributors and federal users of Bureau of Mines Helium

Estimated completion time: ½ hour

Annual response: 300

Annual burden hours: 150

Bureau Clearance Officer: Alice J. Floyd (202) 501–9569

Dated: August 31, 1995.

Billy J. Moore,

General Manager-Helium Field Operations.

[FR Doc. 95–25139 Filed 10–10–95; 8:45 am]

BILLING CODE 4310–53–M

Fish and Wildlife Service

Issuance of Permit for Incidental Take of Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

On July 19, 1995, a notice was published in the **Federal Register** (60 FR 37067) that an application had been filed with the U.S. Fish and Wildlife Service (Service) by The Coleman Company, Golden, Colorado, for a permit to incidentally take, pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), threatened Utah prairie dogs (*Cynomys parvidens*) in conjunction with the 1.4 acre expansion of an existing warehouse in Cedar City, Iron County, Utah, pursuant to an implementation agreement which implements the Coleman Company's Habitat Conservation Plan. No comments were received during the 30-day comment period.

Notice is hereby given that on September 20, 1995, as authorized by the provisions of the Act, the Service issued an incidental take permit (PRT–804404) to the above-named party subject to certain conditions set forth therein. The permit was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the threatened species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act, as amended.

Additional infromation on this permit action may be obtained by contacting the Assistant Field Supervisor, U.S. Fish and Wildlife Service, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84114, telephone (801) 524–5001, between the hours of 7:30 a.m. to 4:30 p.m. weekdays.

Dated: October 2, 1995.

Terry T. Terrell,

Deputy Regional Director, Denver, CO.

[FR Doc. 95–25151 Filed 10–10–95; 8:45 am]

BILLING CODE 4310–55–M

Issuance of Permit for Incidental Take of Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

On July 19, 1995, a notice was published in the **Federal Register** (60 FR 37067) that an application had been filed with the U.S. Fish and Wildlife Service (Service) by West Hills L.L.C., Cedar City, Utah, for a permit to incidentally take, pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), threatened Utah prairie dogs (*Cynomys parvidens*) in conjunction with the development of a 33-acre housing community in Cedar City, Iron County, Utah, pursuant to an implementation agreement which implements West Hills, L.L.C.'s Habitat Conservation Plan. No comments were received during the 30-day comment period.

Notice is hereby given that on September 20, 1995, as authorized by the provisions of the Act, the Service issued an incidental take permit (PRT–804479) to the above-named party subject to certain conditions set forth therein. The permit was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the threatened species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act, as amended.

Additional information on this permit action may be obtained by contacting the Assistant Field Supervisor, U.S. Fish and Wildlife Service, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84114, telephone (801) 524–5001, between the hours of 7:30 a.m. to 4:30 p.m. weekdays.

Dated: October 2, 1995.

Terry T. Terrell,

Deputy Regional Director, Denver, CO.

[FR Doc. 95–25150 Filed 10–10–95; 8:45 am]

BILLING CODE 4310–55–M

Availability of Draft Recovery Plan for the Big Island (Island of Hawaii); Plant cluster for Review and Comment

AGENCY: Fish and Wildlife Service, Interior..

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Big Island Plant Cluster. This plan addresses 22 plant taxa from the island of Hawaii (Big Island) in the State of Hawaii. Twenty taxa are listed as endangered, one is proposed for endangered status, and one is listed as threatened under the Endangered Species Act of 1973, as amended. Twelve of the 22 taxa are endemic to the Big Island while an additional four, which originally had a wider distribution, are now confined to the Big Island. other taxa currently persist on the islands of Niihau, Kauai, Oahu, Molokai, Lanai, and/or Maui as well as the Big Island.

DATES: Comments on the draft recovery plan must be received on or before December 11, 1995 to receive consideration by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, room 6307, 300 Ala Moana Blvd., P.O. Box 50167, Honolulu, Hawaii 96850 (phone 808/541–2749); U.S. Fish and Wildlife Service, Regional Office, Ecological Services, 911 N.E. 11th Ave., Eastside Federal Complex, Portland, Oregon 97232–4181 (phone 503/231–6131); the Kailua-Kona Public Library, 75–138 Hualalai Road, Kailua-Kona, Hawaii 96740 (phone 808/329–2196); and the Hilo Public Library, 300 Waianuenue Avenue, Hilo, Hawaii 96720 (Phone 808/933–4650). Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to brooks Harper, Field Supervisor, at the above Honolulu address.

FOR FURTHER INFORMATION CONTACT: Karen W. Rosa, Fish and Wildlife Biologist, at the above Honolulu address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the Untied States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised Recovery Plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The endangered taxa being considered in the Big Island recovery plan are: *Clermontia linseyana, Clermontia peleana* (subsp. *peleana,* subsp. *singuliflora*), *Clermontia pyrularia, Colubrina oppositifolia, Cyanea copelandii* subsp. *copelandii, Cyanea hamatiflora* subsp. *carlsonii, Cyanea shipmanii, Cyanea stictophylla, Cyrtandra giffardii, Cyrtandra tintinnabula, Delissea undulata* (subsp. *niihauensis,* subsp. *kauaiensis,* subsp. *undulata*), *Ischaemum byrone, Isodendrion pyrifolium, Mariscus fauriei, Nothrocestrum breviflorum, Ochrosia kilaueaensis, Plantago hawaiensis, Portulaca sclerocarpa, Pritchardia affinis, Tetramolopium arenarium* (subsp. *arenarium* var. *arenarium*, subsp. *arenarium* var. *confertum*), subsp. *laxum*), and *Zanthoxylum hawaiiense.* The threatened taxon in the Big Island Plant Cluster is *Silene hawaiiensis.*

Twelve of the 22 taxa are endemic to the Big Island while an additional four, which originally had a wider distribution, are now confined to the Big Island. Other taxa currently persist on the islands of Niihau, Kauai, Oahu, Molokai, Lanai, and/or Maui as well as the Big Island. The island of Hawaii is the largest, highest, and youngest of the Hawaiian Islands, and was built by at least six volcanic mountains. One, the Kilauea volcano, is currently erupting and adding land mass to the island. As a result, the taxa included in this plan grow in a variety of vegetative communities (grassland, shrubland, and forests, elevational zones (coastal to alpine), and moisture regimes (dry to wet). They and their habitats are currently threatened by one or more of the following: habitat degradation by federal or domestic animals (goats, pigs, deer (on Maui and Molokai), cattle and sheep); competition for space, light, water, and nutrients by introduced vegetation; fire, a threat which is exacerbated by introduced grasses; direct human pertubation such as recreational and military activities; pest invertebrates; disease; and vulnerability to stochastic events and genetic limitations due to small population size.

Recovery efforts will focus on protection of all the populations from current threats via fencing and/or hunting to control ungulates; control of alien plants; protection from fire; protection from human disturbance; control of rodents, insects, and disease, where applicable; collection, storage, and maintenance of genetic material. In addition, research concerning the reproductive biology, population ecology, and habitat requirements of these taxa may be needed to establish further causes of decline as well as requirements for their short and long-term survival. Augmentation of small populations that are not expanding after protection from threats, and reestablishment of new populations within the historical range of the taxa may also be needed to achieve recovery goals.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of these plans.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 3, 1995.

Thomas Dwyer,

Acting Regional Director, Fish and Wildlife Service, Region 1.

[FR Doc. 95–25149 Filed 10–10–95; 8:45am]

BILLING CODE 4310–55–M

Minerals Management Service

Environmental Document Prepared for a Three-Dimensional (3–D) Seismic Survey on the Pacific Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service (MMS), Department of the Interior.

ACTION: Notice of the availability of an environmental document prepared for the 3–D Seismic Survey on the Pacific OCS.

SUMMARY: The MMS, in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of a NEPA-related Environmental Assessment (EA) and Finding of No Significant Impact (FONSI), prepared by the MMS for a proposed 3–D seismic survey to take place offshore Santa Barbara County, California in the Santa Ynez Unit.

Parties

Exxon Company, U.S.A.

Activity	Location	Date
3–D Seismic Survey.	Santa Barbara Channel, Santa Ynez Unit.	10/95 through 12/95.

Persons interested in reviewing the environmental document for the proposal listed above or obtaining information about EA's and FONSI's prepared for activities on the Pacific OCS are encouraged to contact the MMS office in the Pacific OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Office of Environmental Evaluation, Pacific OCS Region, Minerals Management Service, 770 Paseo Camarillo, Mail Stop 7300, Camarillo, California, 93010, Telephone (805) 389–7801.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals that relate to research and development of mineral resources on the Pacific OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA is used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that

significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that findings and includes a summary or copy of the EPA.

This notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Dated: September 25, 1995.

J. Lisle Reed,

Regional Director, Pacific OCS Region.

[FR Doc. 95–25132 Filed 10–10–95; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated July 24, 1995, and published in the **Federal Register** on August 1, 1995, (60 FR 39185), Arenol Chemical Corporation, 189 Meister Avenue, Somerville, New Jersey 08876, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methamphetamine (1105)	II
Phenylaceton (8501)	II

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: September 29, 1995.

Gene R. Haislip,

Deputy Assistance Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–25078 Filed 10–10–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 17, 1995, Ciba-Geigy Corporation, Pharmaceuticals Division Regulatory Compliance, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Methylphenidate (1724).

The firm plans to manufacture the finished product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Departments of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 11, 1995.

Dated: September 29, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–25076 Filed 10–10–95; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 22, 1995, Lonza Riverside, 900 River Road, Conchohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

The firm plans to manufacture the listed controlled substances as bulk product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 11, 1995.

Dated: September 29, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–25077 Filed 10–10–95; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated May 30, 1995, and published in the Federal Register on June 8, 1995, (60 FR 30319), Radian Corporation, 8501 Mopac Blvd., P.O. Box 201088, Austin, Texas 78720, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Ibogaine (7260)	I
Etorphine (except HC1) (9056)	I
Heroin (9200)	I
Cocaine (9041)	II
Codeine (9050)	II
Oxycodone (9143)	II
Dextropropoxyphene, bulk (non-dosasge forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: September 29, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–25079 Filed 10–10–95; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated June 19, 1995, and published in the **Federal Register** on June 30, 1995, (60 FR 34297), Roberts Laboratories, Inc., Meridian Center III, 4 Industrial Way West, Eatontown, New Jersey 07724, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of Propiram (9649), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: September 29, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–25080 Filed 10–10–95; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated April 7, 1995, and published in the **Federal Register** on April 17, 1995, (60 FR 19307), Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of Coca Leaves (9040), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: September 29, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–25081 Filed 10–10–95; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Temporary Closing of Reference Service on Certain Textual Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of closure and reopening of reference services for certain textual records holdings in the National Archives related to the move to the National Archives at College Park (Archives II) and the relocation of some records to the National Archives Building.

SUMMARY: This notice provides information about the period of time that reference service on certain textual records holdings of the National Archives will be unavailable due to the move of those holdings from their current locations in the National Archives Building in Washington, DC, and the Washington National Records Center in Suitland, Maryland, to new locations in either the new Archives II facility in College Park, Maryland, or the National Archives Building in Washington, DC. Additional notices will be published by NARA relating to the move of other holdings to Archives II.

During the periods shown for the record groups listed on the schedule at the end of this notice, the National Archives will be unable to provide records for research, or process requests for reproductions (fee orders) or requests for information from these records. Requests received during the periods of suspended service will be returned for resubmission after the date indicated for reopening the records for reference service. Changes in the overall move schedule may require changes in these dates.

For schedule updates and information on the new location of the records, call the User Services Division at (202) 501–5400.

Dated: October 2, 1995.

Michael J. Kurtz,

Assistant Archivist for the National Archives.

RECORD GROUPS CLOSING AND REOPENING

Cluster title	Rg. No.	Record group short title	Close date	Reopen date
Genealogical Related Records	015	Veterans Administration	10/16/95	01/12/96
Genealogical Related Records	029	Bureau of the Census	10/24/95	02/02/96
Genealogical Related Records	049	Bureau of Land Management	11/07/95	06/19/96
Genealogical Related Records	059	Department of State	04/08/96	07/10/96
Genealogical Related Records	085	Immigration and Naturalization Service	04/15/96	07/12/96
Genealogical Related Records	117	American Battle Monuments Commission	04/22/96	07/17/96
Genealogical Related Records	147	Selective Service System (World War II)	04/23/96	07/25/96
Genealogical Related Records	163	Selective Service System (World War I)	05/06/96	07/31/96
Genealogical Related Records	210	War Relocation Authority	05/07/96	09/12/96
Genealogical Related Records	217	Accounting Officers of the Department of the Treasury.	04/30/96	08/14/96
Genealogical Related Records	241	Patent and Trademark Office	05/17/96	10/29/96
Maritime	026	U.S. Coast Guard	12/04/95	01/31/96
Maritime	036	U.S. Customs Service	01/22/96	03/08/96
Maritime	178	U.S. Maritime Commission	02/12/96	04/05/96
Maritime	357	Maritime Administration	03/11/96	04/15/96
Maritime	358	Federal Maritime Commission	03/14/96	04/17/96
Modern Army	332	U.S. Theaters of War, World War II	10/31/95	12/13/95
Modern Army	335	Office of the Secretary of the Army	11/09/95	01/02/96
Modern Army	336	Office of the Chief of Transportation	11/29/95	01/12/96
Modern Army	337	Headquarters Army Ground Forces	12/11/95	01/25/96
Modern Army	338	U.S. Army Commands, 1942–	12/18/95	04/11/96
Modern Army	389	Office of the Provost Marshal General	03/11/96	04/19/96
Modern Army	404	U.S. Military Academy	03/15/96	04/10/96
Modern Army	407	Adjutant General's Office, 1917–	03/20/96	06/21/96
Modern Army	410	Office of the Chief of Support Services	05/20/96	06/27/96
Modern Army	472	U.S. Forces in Southeast Asia, 1950–1975	05/24/96	07/18/96
Modern Army	492	Army Commands, Eur., Med., Africa-Mid.East (WWII).	06/14/96	07/11/96
Modern Army	493	Allied and Army Commands, CBI Theater (WWII).	06/12/96	07/17/96
Modern Navy	024	Bureau of Naval Personnel	10/20/95	01/25/96
Modern Navy	037	Hydrographic Office	11/20/95	02/02/96
Modern Navy	038	Office of the Chief of Naval Operations	11/17/95	02/27/96
Modern Navy	052	Bureau of Medicine and Surgery	01/05/96	03/20/96
Modern Navy	071	Bureau of Yards and Docks	01/12/96	04/03/96
Modern Navy	072	Bureau of Aeronautics	01/29/96	05/17/96
Modern Navy	074	Bureau of Ordnance	03/11/96	06/19/96
Modern Navy	080	Department of the Navy, 1798–1947	02/26/96	07/18/96
Modern Navy	125	Judge Advocate General (Navy)	05/06/96	07/24/96
Modern Navy	127	U.S. Marine Corps	05/13/96	08/01/96
Modern Navy	143	Bureau of Supplies and Accounts	05/29/96	08/21/96
Modern Navy	181	Naval Districts and Shore Establishments	06/12/96	08/27/96
Modern Navy	298	Office of Naval Research	06/21/96	09/02/96
Modern Navy	313	Naval Operating Forces	06/21/96	10/16/96
New Deal and Great Depression	009	National Recovery Administration	06/21/96	10/09/96
New Deal and Great Depression	068	U.S. Coal Commission	06/21/96	10/09/96
New Deal and Great Depression	089	Federal Fuel Distributor	06/25/96	10/11/96
New Deal and Great Depression	150	1935–36 National Bituminous Coal Commission,	06/25/96	10/11/96
New Deal and Great Depression	222	Bituminous Coal Division	06/28/96	10/18/96
Old Army	094	Adjutant General's Office, 1780's–1917	01/15/96	02/02/96
Old Army	112	Office of the Surgeon General (Army)	11/22/95	01/03/96
Old Army	153	Office of the Judge Advocate General (Army)	11/27/95	01/18/96
Old Army	156	Office of the Chief of Ordnance	12/11/95	02/09/96
Old Army	159	Office of the Inspector General (Army)	01/09/96	02/13/96
Old Army	165	War Department General and Special Staffs	01/12/96	02/15/96
Old Army	168	National Guard Bureau	01/12/96	02/20/96
Old Army	175	Chemical Warfare Service	01/12/96	02/22/96
Old Army	191	War Department Claims Board	01/22/96	02/26/96
Old Army	192	Office of Commissary General of Subsistence	03/13/96	04/02/96
Old Army	213	Foreign Claims Section (War)	01/24/96	02/28/96
Old Army	217	Accounting Officers of the Department of the Treasury.	01/29/96	03/07/96
Old Army	247	Office of the Chief of Chaplains	02/05/96	03/11/96
Old Army	394	U.S. Army Continental Commands, 1920–42	02/09/96	03/25/96
Old Army	407	Adjutant General's Office, 1917–	02/23/96	03/27/96
Old Navy	019	Bureau of Ships	01/29/96	03/11/96
Old Navy	037	Hydrographic Office	02/09/96	03/13/96
Old Navy	038	Office of the Chief of Naval Operations	01/30/96	03/29/96
Old Navy	052	Bureau of Medicine & Surgery	01/08/96	02/14/96
Old Navy	071	Bureau of Yards and Docks	02/13/96	03/29/96

RECORD GROUPS CLOSING AND REOPENING—Continued

Cluster title	Rg. No.	Record group short title	Close date	Reopen date
Old Navy	072	Bureau of Aeronautics	02/06/96	04/12/96
Old Navy	074	Bureau of Ordnance	02/16/96	04/16/96
Old Navy	125	Judge Advocate General (Navy)	02/28/96	04/30/96
Old Navy	127	U.S. Marine Corps	03/21/96	04/30/96
Old Navy	143	Bureau of Supplies and Accounts	03/13/96	05/10/96
Old Navy	181	Naval Districts and Shore Establishments	03/25/96	05/10/96
Old Navy	313	Naval Operating Forces	03/13/96	05/31/96
State/Foreign Relations	469	U.S. Foreign Assistance Agencies, 1948–61	10/24/95	01/08/96
State/Foreign Relations	490	Peace Corps	12/04/95	01/10/96
World War I Period Agencies	002	National War Labor Board (World War One)	04/15/96	08/27/96
World War I Period Agencies	004	U.S. Food Corporation	04/17/96	09/04/96
World War I Period Agencies	005	U.S. Grain Corporation	04/24/96	09/06/96
World War I Period Agencies	006	U.S. Sugar Equalization Board, Inc.	04/24/96	09/06/96
World War I Period Agencies	014	U.S. Railroad Administration	04/29/96	09/11/96
World War I Period Agencies	061	War Industries Board	04/30/96	09/17/96
World War I Period Agencies	062	Council on National Defense	05/06/96	09/19/96
World War I Period Agencies	067	U.S. Fuel Administration	05/08/96	09/25/96
World War I Period Agencies	158	Capital Issues Committee	05/13/96	09/27/96
World War I Period Agencies	182	War Trade Board	05/17/96	10/03/96
World War I Period Agencies	194	War Minerals Relief Commission	05/24/96	10/07/96

[FR Doc. 95–24962 Filed 10–10–95; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice

Applications and Amendments to Facility Operating LicensesInvolving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 16, through September 28, 1995. The last biweekly notice was published on Septmeber 27, 1995 (60 FR 49929).

Notice Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By November 10, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: August 10, 1995

Description of amendment request: The proposed amendment will add a footnote to Technical Specification (TS) Section 3/4.4.3, ''Pressurizer,'' to allow the pressurizer level to be controlled, outside of the programmed level, between 25 to 50 percent, plus or minus 5 percent in Mode 3 when the reactor coolant system is borated to the required Mode 5 concentrations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

...The proposed change does not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The design basis accidents analyzed in Mode 3 are steam line break, control rod withdrawal from subcritical, boron dilution and control rod ejection. Of these four analyzed accidents, the relaxing of the pressurizer level requirement can only impact the steam line break accident analyses. The initial pressurizer level can impact the timing of the safety injection signal and the subsequent boron addition from the HPSI [high pressure safety injection] system. The proposed change requires that the boron concentration be equal to the Mode 5 required concentration in order for the pressurizer level to be higher than the current requirement. The Mode 5 boron concentration ensures that there is sufficient negative reactivity in the core due to boron that a steam line break from this condition would not need the boron addition from the HPSI system and would be bounded by the design basis analyses. Thus the proposed change cannot increase the probability or consequences of the design basis accidents.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change only modifies the Mode 3 pressurizer level requirement. This change does not impact the lower bound but provides flexibility to the plant operators in the maximum pressurizer level. The upper limit still provides margin to pressurizer overfill. This cannot cause an accident nor introduce a new type of malfunction. The modified level would allow for a higher initial pressurizer level in Mode 3. This higher level is already used in the accident analyses which result in an increase in pressurizer level. Therefore, the change does not modify the plant's response to accidents.

3. Involve a significant reduction in the margin of safety.

The proposed change is consistent with or bounded by the design basis analyses. The higher shutdown margin required in order to relax the upper bound of the pressurizer level assures that a steam line break from these conditions is bounded by the design basis analyses. Therefore, the proposed change cannot impact the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

NRC Project Director: Phillip F. McKee

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: September 1, 1995

Description of amendment request: Generic Letter 88-16 provided guidance on removing cycle-specific parameters which are calculated using NRC-approved methodologies from the Technical Specifications (TS). The parameters are replaced in the TS with a reference to a named report which contains the parameters, and a requirement that the parameters remain within the limits specified in the report. The proposed changes incorporate NRC-approved methodologies, approved revisions to previously approved methodologies, or republished versions of previously approved methodologies into Section 6.9.2 of the Oconee TS. The limits to which these methodologies are applied are 1) Axial Power Imbalance Protective Limits and Variable Low RCS Pressure Protective Limits, 2) Reactor Protective System Trip Setting Limits for the Flux/Flow/Imbalance and Variable Low Reactor Coolant System Pressure Trip functions, and 3) Power Imbalance Limits. Since the proposed changes only incorporate NRC-approved methodologies into the TS, the licensee proposed that the changes are administrative in nature and can be

assumed to have no impact, or potential impact, on the health and safety of the public.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes will not create a significant hazards consideration, as defined by 10 CRF 50.92, because:

1) The proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative in nature, and do not affect any system, procedure, or manipulation of any equipment which could affect the probability or consequences of any accident.

2) The proposed changes will not create the possibility of any new or different kind of accident from any accident previously evaluated.

The proposed changes are administrative in nature, and cannot introduce any new failure mode or transient which could create any accident.

3) The proposed changes will not involve a significant reduction in a margin of safety.

The proposed changes are administrative in nature, and will not affect any operating parameters or limits which could result in a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: November 9, 1994, as supplemented by letter dated August 4, 1995

Description of amendment request: This supplement revises the licensee's November 9, 1994, application by updating the request to reflect implementation of the Improved Standard Technical Specifications on March 20, 1995, and by deleting the request for a definition of the term RECENTLY IRRADIATED FUEL. The proposed amendment revises those specifications associated with various engineered safety feature systems following a design basis fuel handling accident. The proposed changes affect conditions where irradiated fuel is handled in the primary or secondary containment and when fuel is handled over the reactor vessel with fuel in the vessel. These changes are based on a recent re-analysis of the fuel handling accident for Grand Gulf Nuclear Station (GGNS).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

A new term to describe irradiated fuel is used to establish operational conditions where specific activities represent situations where significant radioactive releases can be postulated. These operational conditions are consistent with the design basis analysis. Because the equipment affected by the revised operational conditions is not considered an initiator to any previously analyzed accident, inoperability of the equipment cannot increase the probability of any previously evaluated accident. The proposed requirements in conjunction with existing administrative controls on light loads, bounds the conditions of the current design basis fuel handling accident analysis which concludes that the radiological consequences are within the acceptance criteria of NUREG 0800, Section 15.7.4 and General Design Criteria 19. Therefore, the proposed changes do not significantly increase the probability or consequences of any previously evaluated accident.

Based on the above, the proposed changes do not significantly increase the probability or consequences of any accident previously evaluated.

2. The proposed changes would not create the possibility of a new or different kind of accident from any previous analyzed.

The new term to describe irradiated fuel is used to establish operational conditions where specific activities represent situations where significant radioactive releases can be postulated. These operational conditions are consistent with the design basis analysis. The proposed changes do not introduce any new modes of plant operation and do not involve physical modification of the plant. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previous analyzed.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously analyzed.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The new term to describe irradiated fuel is used to establish operational conditions where specific activities represent situations where significant radioactive releases can be postulated. These operational conditions are consistent with the design basis analysis and are established such that the radiological consequences are at or below the current GGNS licensing limit. Safety margins and analytical conservatisms have been evaluated and are well understood. Substantial margins are retained to ensure that the analysis adequately bounds all postulated event scenarios. The proposed change only eliminates the excess margin from the analysis. The current margin of safety is retained.

Specifically, the margin of safety for the fuel handling accident is the difference between the 10 CFR 100 limits and the licensing limit defined by NUREG 0800, Section 15.7.4. With respect to the control room personnel doses, the margin of safety is the difference between the 10 CFR 100 limits and the licensing limit defined by 10 CFR 50, Appendix A, Criterion 19 (GDC 19). Excess margin is the difference between the postulated doses and the corresponding licensing limit.

The proposed applicability continues to ensure that the

whole-body and thyroid dose at the exclusion area and low population zone boundaries as well as control room, doses are at or below the corresponding licensing limit. The margin of safety is unchanged; therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Therefore, the proposed changes do not result in a significant reduction in a margin of safety.

Based on the above evaluation, operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: William D. Beckner

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: July 19, 1995

Description of amendment request: The proposed amendment reduces requirements associated with the exercise frequency of control element assemblies from once per 31 days to once per 92 days.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

Changing the frequency of the control element assemblies (CEA) exercise test surveillance introduces no new failure mechanism for the system, so the consequences of a postulated stuck CEA are no different than those previously evaluated.

As explained in NUREG-1366, ''Improvements to Technical Specifications Surveillance Requirements,'' the purpose of this test is to identify immovable CEAs. NUREG-1366 goes on to explain that the majority of CEA problems are identified during the performance of startup physics testing and during CEA withdrawal for startup, not during the exercise test. The incidence of electrical malfunctions which will still allow CEA insertion is much greater than the incidence of mechanically bound CEAs. As stated in NUREG-1366, there has only been one incidence of multiple CEAs failing to fully insert upon a reactor trip (Point Beach Nuclear Plant, May 1985) and in this case the two affected CEAs partially inserted. Based on this history, simply reducing the test frequency will not increase the probability of a stuck CEA.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

Because the proposed change does not alter the design, configuration, or method of operation of the plant, it does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed change does not alter the acceptance criteria of any surveillance requirements, alter any assumptions used in accident analysis, change any actuation setpoints, nor allow operations in any configuration not previously evaluated. This change in surveillance frequency is based on a satisfactory operating history of CEAs. Additionally, the number of problems created by this test when compared with the number of problems identified by this test indicate that reducing the test frequency will have no adverse impact on the continued safe operation of the unit.

Therefore, this change does not involve a significant reduction in the margin of safety.

Therefore, based upon the reasoning presented above and the previous discussion of the amendment request, Entergy Operations had determined that the requested change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005-3502

NRC Project Director: William D. Beckner

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: September 11, 1995

Description of amendment request: The licensee proposes to change Turkey Point Units 3 and 4 Technical Specifications (TS) to incorporate line-item improvements to Specifications 3/4.8.1, ''Electrical Power Systems-A.C. Sources,'' and the associated BASES. The licensee stated that the proposed changes are consistent with the guidance provided by the NRC in GL 93-05, ''Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation,'' and the corresponding recommendations contained in NUREG-1366, ''Improvements to Technical Specifications Surveillance Requirements.''

In addition, line-item improvements are proposed following the guidance in GL 94-01, ''Removal of Accelerated Testing and Special Reporting Requirements for Emergency Diesel Generators.'' The implementation of a maintenance program for monitoring and maintaining Emergency Diesel Generator (EDG) performance for Turkey Point Units 3 and 4, consistent with the provisions of 10 CFR 50.65 ''Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants'' and the associated guidance of Regulatory Guide (RG) 1.160 will be met by FPL within 90 days following issuance of the proposed amendments.

The licensee also requested to revise the current wording used in the Turkey Point Units 3 and 4 TS to require testing of remaining required diesel generators ''[i]f the diesel generator became inoperable due to any cause other than planned preventative maintenance...''. The licensee requested that TS 3.8.1.1, ACTION statements b. and c. be amended such that the word 'preventative' is deleted. Deleting this wording will reduce unnecessary testing of diesel generators as a result of planned corrective maintenance.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The license amendments proposed for Turkey Point Units 3 and 4 will incorporate line-item Technical Specification (TS) improvements for Emergency Diesel Generators (EDG) pursuant to guidance provided in Generic Letters (GL) 93-05 and 94-01. The EDGs are not accident initiators, the proposed TS changes do not involve any assumptions relative to accident initiators in the plant safety analyses, and therefore the proposed amendments will not impact the probability of occurrence for accidents previously analyzed.

The EDG line-item TS improvements associated with GL 93-05 are based on recommendations designed to remove unwarranted requirements for testing during power operation and other factors that are counter-productive to safety in terms of equipment degradation and availability. These recommendations resulted from a comprehensive study of industry-wide EDG surveillance requirements and subsequent findings reported by the NRC in NUREG-1366. The proposed amendments are consistent with the guidance of GL 93-05 for implementing such recommendations as well as contemporary licensing actions by the NRC on other light water reactors.

Similarly, GL 94-01 provides guidance for a line-item TS improvement that will remove accelerated testing requirements from the TS provided that the licensee commits to a maintenance program for monitoring and maintaining EDG performance that includes the applicable provisions of the maintenance rule (10 CFR 50.65). Such a program will further assure EDG availability. Since the availability of EDGs is assumed in certain success paths for mitigating analyzed accidents, an improvement in EDG availability will enhance accident mitigation capabilities.

Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments incorporate line-item TS and other improvements to EDG surveillance testing requirements, and will not change the physical plant or the modes of plant operation defined in the Facility License. The changes do not involve the addition or modification of equipment, nor do they alter the design or methods of operation of plant systems. Plant configurations that are prohibited by TS will

not be created by the amendments. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The proposed amendments are designed to improve EDG availability by eliminating unwarranted surveillance testing. The currently specified surveillance intervals are not changed, except to delete the requirement for accelerated testing under certain circumstances. The proposed changes do not otherwise alter the basis for any Technical Specification that is related to the establishment of, or the maintenance of a nuclear safety margin. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199

Attorney for licensee: J. R. Newman, Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036

NRC Project Director: David B. Matthews

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: July 24, 1995

Description of amendment request: The proposed amendment would modify Technical Specification 3.6.C to allow up to 7 days to restore low pressure safety injection (LPSI) pump subsystem operability, and up to 24 hours to restore safety injection tank (SIT) operability.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The LPSI system is designed primarily to mitigate the consequences of a large loss-of-coolant accident (LOCA). Inoperable LPSI components are not accident initiators in any accident previously evaluated, and the proposed change does not affect any of the assumptions relative to accident initiators in the plant's safety analysis. Probabilistic safety analysis (PSA) methods were used to fully evaluate the extension of the LPSI system allowed outage time (AOT). The licensee asserts that the results of these analyses show no significant increase in the consequences of an accident previously evaluated. The SITs were designed to mitigate the consequences of a LOCA. The proposed amendment does not affect any of the assumptions used in the deterministic LOCA analysis. Probabilistic safety analysis methods were used to fully evaluate the effect of the SIT allowable outage time (AOT). The licensee asserts that the results of these analyses show no significant increase in the consequences of an accident previously evaluated. Thus, there is no significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment does not change the design, physical configuration, or modes of operation of the plant. Plant configurations that are prohibited by TS will not be created by this proposed amendment. Thus, the proposed amendment does not create the possibility or consequences of an accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety. The proposed amendment does not affect the limiting conditions for operation or the bases used in the deterministic analyses to establish the margin of safety. The licensee asserts that PSA methods were used to evaluate these changes and demonstrate that the changes are either risk neutral or risk beneficial. Thus, the proposed amendment does not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that this amendment request involves no significant hazards determination.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578

Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 329 Bath Road, Brunswick, ME 04011

NRC Project Director: Phillip F. McKee

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: August 8, 1995

Description of amendment request: The proposed amendment would modify the definition of Transthermal (Condition 4), Hot Shutdown (Condition 5), and Hot Standby (Condition 6) reactor operating conditions. The Transthermal and Hot Shutdown conditions are modified to establish an applicable range of subcriticality and be consistent with other Definitions. The wording of Hot Standby is modified to remove reference to control rod position, consistent with NUREG-1432, Standard Technical Specifications for Combustion Engineering Plants, Revision 1 dated April 1995.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The changes to these Definitions are administrative in nature. The Transthermal and Hot Shutdown conditions are changed by adding ''at least'' to establish a range of subcriticality. The current Definitions for the Transthermal and Hot Shutdown conditions set one minimum value for subcriticality; the change to these two Definitions would allow a range of values for subcriticality. All values of subcriticality that may be established by this change are below the current Definitions (more subcritical). The change to the wording of Hot Standby removes confusion about the Conditions during which control rods may be withdrawn and is consistent with current NRC guidance. All current plant analyses, requirements and acceptance criteria on subcriticality conditions remain in effect. The changes to these Definitions have no impact on event probabililty. Thus, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment clarifies the subject Definitions. Limits on subcriticality requirements are unaffected, as are reactivity transients previously evaluated. Plant procedures currently require that minimum values for subcriticality be established. All values of subcriticality that may be established by this change are below the current Definitions (more subcritical). Further, the change to the wording of Hot Standbyis consistent with current NRC guidance. Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety. Adding the words ''at least'' to the Transthermal and Hot Shutdown conditions establishes a range of subcriticality to the

Definitions for these terms. All values of subcriticality are below (more subcritical) than the current value, thus the margin of safety is increased. All current plant analyses, requirements and acceptance criteria on subcriticality conditions remain in effect. The change to the wording of Hot Standby removes confusion about the Conditions during which control rods may be withdrawn and is consistent with current NRC guidance. Thus, there is no significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that this amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578

Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 329 Bath Road, Brunswick, ME 04011

NRC Project Director: Phillip F. McKee

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: August 30, 1995

Description of amendment request: The proposed amendment would change Technical Specification (TS) 1.3.A, Reactor Core, to allow the use of fuel rods clad with zirconium alloy, rather than restrict fuel rod cladding to Zircaloy-4. In addition, the fuel enrichment limit described in this specification would be changed to more closely agree with the wording found in NUREG-1432, ''Standard Technical Specifications for Combustion Engineering Plants,'' dated April 1995.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an acident previously evaluated. Maine Yankee (MY) reload cores containing fuel rods clad with zirconium alloy and having higher fuel enrichments will be analyzed using NRC-approved methods and applicable acceptance criteria. In addition, the impact of fuel assembly design changes on fuel storage will be analyzed using NRC-approved methods and acceptance criteria. Compliance with the acceptance criteria for the applicable analysis for a given core design must be determined for each core prior to reloading. The material used to clad the fuel and the fuel enrichment are only two of the factors considered in this determinination. The application of approved methods ensures that all appropriate variables are addressed and their acceptance criteria satisfied. Thus, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The determination of compliance with the acceptance criteria of the approved safety evaluation for any given core reload design is performed for each MY reload core prior to loading. In addition, determination of compliance with the acceptance criteria of the approved safety evaluation for fuel storage is performed for each core prior to receipt of the fuel. The use of approved methods and their acceptance criteria ensures that new or different accidents will not be encountered by the use of fuel rods clad with zirconium alloy and having higher fuel enrichments. Further, the proposed change does not involve any altertions to plant equipment that would affect any operational modes or accident precursors. Finally, the proposed change does not involve, or require secondary involvement of, any equipment important to safety. Thus the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety. Maine Yankee reload cores containing fuel rods clad with zirconium alloy and having higher fuel enrichments will be analyzed using NRC-approved methods and applicable acceptance criteria. Safety evaluations performed for each core reload ensure that the core design meets appropriate safety assessment acceptance criteria. In addition, the impact of fuel assembly design changes on fuel storage also will be analyzed using NRC-approved methods and aceptance criteria. Application of the approved methods ensures that the requirements of MY TS 1.1, Fuel Storage, are achieved. Because these requirements are not changed, the margin of safety remains the same. Thus there is no significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that this amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578

Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 329 Bath Road, Brunswick, ME 04011

NRC Project Director: Phillip F. McKee

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine YankeeAtomic Power Station, Lincoln County, Maine

Date of amendment request: August 31, 1995

Description of amendment request: The proposed amendment would relocate fire protection requirements from the Maine Yankee (MY) Atomic Power Station Technical Specifications (TS) to other, licensee-controlled documents. The proposed amendment is consistent with the guidance of U.S. NRC Generic Letters 86-10, Implementation of Fire Protection Requirements, and 88-12, Removal of Fire Protection Requirements from the Technical Specifications.

Basis for proposed no significant hazards consideration etermination: As required by 10 CFR 50.91(a), the licensee has provided its analysis if the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change is administrative and consistent with the guidance provided by the U.S. NRC. Removing fire protection requirements from the TS does not affect any fire protection equipment, or involve any physical modifications to plant structures, systems or components. The proposed change is not associated with accident initiation or mitigation and cannot affect the probability of occurrence of an accident, or increase the consequences of an accident. The licensee's fire protection plan contains the relocated requirements.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change introduces no new mode of plant operation, does not involve physical modification of any structure, system or component, and does not affect the function, operation or surveillance requirements of any equipment necessary for safe operation or shutdown. Further, the proposed change does not involve any change to equipment setpoints or operating parameters. The proposed change is administrative in nature. Existing plant fire protection equipment requirements are retained. Thus, the proposed change does not create the possibility for a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety. No margins of safety established by system or component design, or verified by testing to ensure operability of fire protection systems or components, are affected. Fire protection requirements currently found in the TS will be relocated in their entirety to the Maine Yankee Fire Protection Plan. Any future

changes to the Plan will be evaluated in accordance with the requirements of 10 CFR 50.59, Changes, tests and experiments. Thus the proposed change does not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578

Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 329 Bath Road, Brunswick, ME 04011

NRC Project Director: Phillip F. McKee

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit Nos. 2, New London, Connecticut

Date of amendment request: September 11, 1995

Description of amendment request: The proposed changes affect Technical Specification Sections 3.4.8 and 3.9.9, Tables 2.2-1, 3.3-3, 3.3-5 and 3.3-8, and Bases Sections 3/4.2.1, 3/4.4.8 and 3/4.11.2.1. These changes combine several different administrative changes which will correct typographical errors, provide clarifications, or make editorial changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

Pursuant to 10CFR50.92, NNECO has reviewed the proposed changes. NNECO concludes that these changes do not involve a significant hazards consideration since the proposed change satisfies the criteria in 10CFR50.92(c). That is, the proposed changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed changes are administrative in nature and do not result in changes to plant configuration, operation, accident mitigation, or analysis assumptions. Thus, it cannot increase the probability or consequence of an accident.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes are administrative in nature and do not result in changes to plant configuration, operation, accident mitigation, or analysis assumptions. The intent and application of the proposed specification will not change. Therefore, the proposal does not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in the margin of safety.

Since the proposed change[s] are administrative in nature and do not result in changes to plant configuration, operation, accident mitigation, or analysis assumptions, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

NRC Project Director: Phillip F. McKee

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment requests: July 17, 1995

Description of amendment requests: The proposed amendments would revise the Prairie Island Radiological Effluent Technical Specifications and other sections relating to radiological controls to conform to NUREG-1431, Standard Technical Specifications, Westinghouse Plants, Revision 1, and Generic Letter 89-01, ''Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or to the Process Control Program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes are administrative in nature and alter only the format and location of programmatic controls and procedural details relative to radioactive effluents, radiological environmental monitoring, radioactive source leakage testing, solid radioactive wastes, and associated reporting requirements. Existing Technical Specifications containing procedural details on radioactive effluents, radiological environmental monitoring, radioactive source leakage testing, explosive gas monitoring, storage tank radioactive content limits, solid radioactive wastes and associated reporting requirements are being relocated to the Offsite Dose Calculation Manual, Process Control Program or other new programs as appropriate. Compliance with applicable regulatory requirements will continue to be maintained. In addition, the proposed changes do not alter the conditions or the assumptions in any of the previous accident analyses. Since the previous accident analyses remain bonding, the radiological consequences previously evaluated are not adversely affected by the proposed changes.

Therefore, the probability or consequences of an accident previously evaluated are not affected by any of the proposed amendments.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve any change to the configuration or method of operation of any plant equipment. Accordingly, no new failure modes have been defined for any plant system or component important to safety nor has any new limiting single failure been identified as a result of the proposed changes. Also, there will be no change in types or increase in the amounts of any effluents released offsite.

Therefore, the possibility of a new or different kind of accident from any accident previously evaluated would not be created.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The proposed changes do not involve a significant reduction in a margin of safety. The proposed changes do not involve any actual change in the methodology used in the control of radioactive effluents, radioactive sources, solid radioactive wastes, or radiological environmental monitoring. These changes are considered administrative in nature and provide for the relocation of procedural details outside of the technical specifications but add appropriate administrative controls to provide continued assurance of compliance to applicable regulatory requirements. These proposed changes also comply with the guidance contained in Generic Letter 89-01 and the Standard Technical Specifications.

Therefore, it can be concluded a significant reduction in the margin of safety would not be involved.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: John N. Hannon

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: June 19, 1995

Description of amendment request: The proposed amendment would revise Technical Specification Section 2.1, ''Safety Limits,'' to change the Minimum Critical Power Ratio Safety Limit due to the use of General Electric 13 fuel product line.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specifications (TS) change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The derivation of the revised GE13 [General Electric] Minimum Critical Power Ratio (MCPR) Safety Limit for incorporation into the Technical Specifications, and its use to determine cycle-specific thermal limits have been performed using NRC-approved methods within the existing design and licensing basis, and cannot increase the probability or severity of an accident.

The basis of the MCPR Safety Limit calculation is to ensure that greater than 99.9% of all fuel rods in the core avoid boiling transition if the limit is not violated. The new MCPR Safety Limit preserves the existing margin to transition boiling and fuel damage in the event of a postulated accident.

All design bases of the MCPR Safety Limit calculation apply to GE13 fuel in the same manner that they have applied to previous fuel designs. The probability of fuel damage is not increased.

Therefore, the proposed TS change does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The MCPR Safety Limit for the GE13 fuel design is a Technical Specification numerical value, designed to ensure that fuel damage from transition boiling does not occur as a result of the limiting postulated accident. It cannot create the possibility of any new type of accident. The new Minimum Critical Power Ratio (MCPR) Safety Limit is calculated using NRC-approved methods and has the same calculational basis as the MCPR Safety Limit for other GE fuel designs currently used at LGS [Limerick Generating Station] Unit 1.

Therefore, the proposed TS change does not create the possibility of a new or different kind of accident, from any accident previously evaluated.

3. The proposed TS change does not involve a significant reduction in a margin of safety.

The following TS Bases were reviewed for potential reduction in the margin of safety:

2.1 ''Safety Limits''

3/4.2.1 ''Average Planar Linear Heat Generation Rate''

3/4.2.3 ''Minimum Critical Power Ratio''

3/4.2.4 ''Linear Heat Generation Rate''

3/4.4.1 ''Recirculation System''

3/4.9 ''Refueling Operations''

The margin of safety as defined in the TS Bases will remain the same. The new Minimum Critical Power Ratio (MCPR) Safety Limit is calculated using NRC approved methods which are in accordance with the current fuel design and licensing criteria. The MCPR Safety Limit for GE13 fuel remains high enough to ensure that greater than 99.9% of all fuel rods in the core will avoid boiling transition if the limit is not violated, thereby preserving the fuel cladding integrity.

Therefore, the proposed TS change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V. P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: John F. Stolz

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: September 14, 1995

Description of amendment request: The amendments change the Technical Specifications (TS) by removing the Reactor Enclosure and Refueling Area Secondary Containment Isolation Valve Tables 3.6.5.2.1-1 and 3.6.5.2.2-1 from TS in accordance with NRC Generic Letter (GL) 91-08, ''Removal of Component Lists from Technical Specifications.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will remove component tables from TS. The component lists will be retained in licensee controlled documents (UFSAR [Updated Final Safety Analysis Report] and a plant procedure) which will be maintained under the requirements of TS Administrative Controls Section 6.0 and the provisions of 10 CFR 50.59. Since any changes to licensee controlled documents are required to be evaluated per 10 CFR 50.59, no increase (significant or insignificant) in the probability or consequences of an accident previously evaluated will be allowed.

In addition, these proposed changes will not affect any equipment important to safety, in structure or operation. These changes will not alter operation of process variables, structures, systems, or components as described in the safety analysis and licensing basis. The changes will not increase the probability or consequences of occurrence of a malfunction of equipment important to safety previously evaluated in the SAR [Safety Analysis Report].

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not alter the plant configuration or change the methods governing normal plant operation. The changes will not impose different operating requirements and adequate control of information will be retained. The changes will not alter assumptions made in the safety analysis and licensing basis. Since the proposed changes cannot cause an accident, and the plant response to the design basis events is unchanged, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The proposed changes to remove the component tables from TS have been performed under the guidance of NRC GL 91-08. The component lists will be retained in licensee controlled documents (UFSAR and a plant procedure) which will be maintained under the requirements of TS Administrative Controls Section 6.0 and the provisions of 10 CFR 50.59. These changes will not reduce the margin of safety since they have no impact on any safety analysis assumptions. Since any future changes to the removed tables will be evaluated under the requirements of 10 CFR 50.59, no reduction (significant or insignificant) in a margin of safety will be allowed. Therefore, the proposed TS changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are

satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V. P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: John F. Stolz

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: May 26, 1995

Brief description of amendment: The proposed amendment would represent a full conversion from the current Technical Specifications (TSs) to a set of TS based on NUREG-1431, ''Standard Technical Specifications, Westinghouse Plants,'' Revision 0, dated September 1993, together with approved travellers used in the issuance of Revision 1, dated April 1995. NUREG-1431 was developed through working groups composed of NRC staff members and industry representatives and has been endorsed by the staff as part of an industry-wide initiative to standardize and improve the TSs. As part of this submittal, the licensee has applied the criteria contained in the Commission's Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors of July 22, 1993, to the current Ginna TSs, and using NUREG-1431 as a basis, developed a proposed set of improved TSs for Ginna.Date of publication of individual notice in **Federal Register:** September 26, 1995 (60 FR 49636)

Expiration date of individual notice: October 26, 1995

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610

Tennessee Valley Authority, Docket No. 50-296, Browns Ferry Nuclear Plant, Unit 3, Limestone County, Alabama

Date of amendment request: September 13, 1995 (TS 368)

Description of amendment request: The proposed amendment deletes requirements for daily checks for certain instruments that do not have indications, and provides editorial changes.

*Basis for proposed no significant hazards consideration determination:*As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative in nature and correct errors that were introduced by previous changes to the TSs. These changes do not affect any of the design basis accidents nor do they involve an increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are administrative in nature. These changes do not change the operation or function of the affected instrumentation. The deletion of the RCIC and HPCI instrument checks reflects the actual installed configuration of this instrumentation (no indication) and the change to Table 4.2.C corrects the referenced note for the SRM Upscale function. Therefore, the possibility for an accident or malfunction of a different type than any evaluated previously is not created by this change.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed changes are administrative in nature. The proposed changes to TS Tables 4.2.B and 4.2.C do not affect any acceptable limit of operation, instrument setpoint, or analysis assumption in the TS or Bases. Therefore, this change does not reduce the margin of safety as defined in the basis for any TS.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET llH, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

TU Electric Company, Docket Nos. 50-445 and 50-446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: August 15, 1995

Brief description of amendments: The proposed amendment would relocate the Shutdown Margin limits from the Technical Specifications (TSs) to the Core Operating Limits Report. The proposed changes are consistent with the intent of Generic Letter (GL) 88-16 which provides guidelines for the removal of cycle-specific parameter limits from the TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes remove cycle-specific parameter limits from the Technical Specifications, add them to the list of limits contained in the Core Operating Limits Report (COLR), and revise the Administrative Controls section of the Technical Specifications. The changes do not, by themselves, alter any of the parameter limits. The changes are administrative in nature and have no adverse effect on the probability of an accident or on the consequences of an accident previously evaluated. The removal of parameter limits from the Technical Specifications does not eliminate the requirement to comply with the parameter limits.

The parameter limits in the COLR may be revised without prior NRC approval. However, Specification 6.9.1.6c continues to ensure that the parameter limits are developed using NRC-approved methodologies and that applicable limits of the safety analyses are met. While future changes to the COLR parameter limits could result in event consequences which are either slightly less or slightly more severe than the consequences for the same event using the present parameter limits, the differences would not be significant and would be bounded by the requirement of specification 6.9.1.6c to meet the applicable limits in the safety analysis.

Based on the above, removal of the parameter limits from the Technical Specifications and the addition of these limits the list of limits in the COLR, thus allowing revision of the parameter limits without prior NRC approval, has no significant effect on the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes remove certain parameter limits from the Technical Specifications and add these limits to the list of limits in the COLR, removing the requirement for prior NRC approval of revisions to those parameters. The changes do not add new hardware or change plant operations and therefore cannot initiate an event nor cause an analyzed event to progress differently. Thus, the possibility of a new or different kind of accident is not created.

3. Do the proposed changes involve a significant reduction in a margin of safety?

The margin of safety, as it relates to a parameter limit, is the difference between the

acceptance criterion for that parameter and its failure value. The proposed changes do not affect the failure values for any system. Through the accident analyses, all relevant event acceptance criteria (as described in the NRC-approved analysis methodologies) are shown to be satisfied; therefore, there is no impact on an event acceptance criteria. Because neither the failure values nor the acceptance criteria are affected, the proposed change has no effect on the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, N.W., Washington, DC 20036

NRC Project Director: William D. Beckner

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: September 19, 1995

Description of amendment request: The proposed amendment would make administrative changes to the Kewaunee Nuclear Power Plant (KNPP) Technical Specifications (TS) to improve their clarity and consistency. The proposed amendment includes changes to reflect revisions to 10 CFR Part 20, and changes to correct minor typographical and format inconsistencies as part of an ongoing effort to convert the TS to the WordPerfect format.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes were reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed changes will not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated.

The likelihood that an accident will occur is neither increased or decreased by these TS changes. These TS changes will not impact the function or method of operation of plant equipment. Thus, there is not a significant increase in the probability of a previously analyzed accident due to these changes. No systems, equipment, or components are affected by the proposed changes. Thus, the consequences of the malfunction of equipment important to safety previously evaluated in the Updated Safety Analysis Report (USAR) are not increased by these changes.

The proposed changes are administrative in nature and, therefore, have no impact on accident initiators or plant equipment, and thus, do not affect the probabilities or consequences of an accident.

2. create the possibility of a new or different kind of accident from any accident previously evaluated.

Operation of the facility in accordance with the proposed TS changes would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve changes to the physical plant or operations. Since these administrative changes do not contribute to accident initiation, they do not produce a new accident scenario or produce a new type of equipment malfunction. Also, these changes do not alter any existing accident scenarios; they do not affect equipment or its operation, and thus, do not create the possibility of a new or different kind of accident.

3. involve a significant reduction in the margin of safety.

Operation of the facility in accordance with the proposed TS would not involve a significant reduction in a margin of safety. The proposed changes do not affect plant equipment or operation. Safety limits and limiting safety system settings are not affected by these proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, Wisconsin 54311-7001.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P. O. Box 1497, Madison, Wisconsin 53701-1497.

NRC Project Director: Gail H. Marcus

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: September 14, 1995

Description of amendment request: The proposed amendment would revise Technical Specification 3/4.5.5 to increase the outage time allowed for adjusting the boron concentration of the refueling water storage tank (RWST) from 1 hour to 8 hours.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The increase in the RWST allowed outage time does not alter the plant configuration or operation. The potential for the RWST boron concentration to be outside the technical specification limits is small because the RWST and its contents are not involved with normal plant operation and are not subject to process variations associated with plant operation.

The potential causes of boron concentration deviation have been evaluated with the conclusion that any deviation in RWST boron concentration would not be expected to increase significantly during the proposed 7 hour allowed outage time increase.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Increasing the RWST allowed outage time from 1 hour to 8 hours for reasons directly related to boron concentration does not require physical alteration to any plant system and does not change the method by which any safety related system performs its functions. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Increasing the RWST allowed outage time for reasons directly related to boron concentration does not affect any accident analysis assumptions, initial conditions, or results. The margins of safety reflected in the Wolf Creek Generating Station Technical Specifications are not compromised by the 7 hour allowed outage time increase. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: William H. Bateman

Previously Published Notices Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois, Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: September 1, 1995

Description of amendment request: The proposed amendments would revise the present voltage-based repair criteria in the Byron 1 and Braidwood 1 Technical Specifications (TSs). These proposed revisions would raise the lower voltage limit from its present value of 1.0 volt to 3.0 volts; there would no longer be an upper voltage limit.

The Braidwood 1 TSs were revised by License Amendment No. 54, issued on August 18, 1994, to add voltage-based repair criteria to the existing steam generator (SG) tube repair criteria. The Byron 1 TSs were revised in a similar manner by License Amendment No. 66, issued on October 24, 1994.

The voltage-based repair criteria in the subject TSs are applicable only to a specific type of SG tube degradation which is predominantly axially-oriented outer diameter stress corrosion cracking (ODSCC). This particular form of SG tube degradation occurs entirely within the intersections of the SG tubes with the tube support plates (TSPs).

The present voltage values for the ODSCC repair criteria are based on the assumption of a ''free span'' exposure of the SG tube flaw; i.e., no credit is given for any constraint against burst or leakage, which may be provided by the presence of the TSPs. This approach is, in turn, based on the assumption that under postulated accident conditions, the TSPs may be displaced sufficiently by blowdown hydrodynamic loads such that a SG tube flaw which was fully confined within the thickness of the TSP prior to the accident would then be fully exposed. This approach was first advanced by the NRC staff in a draft generic letter issued on August 12, 1994, which was subsequently modified slightly and issued as Generic letter (GL) 95-05, ''Voltage-Based Repair Criteria For Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking,'' dated August 3, 1995. The previous license amendments related to the issue of ODSCC were based to a large extent on the draft generic letter cited above.

The fundamental difference between the pending proposal to raise the lower voltage repair limit to 3.0 volts and the methodology contained in GL 95-05, is that the licensee proposes to install certain modifications to the SG internal structures, thereby limiting to a small value, the maximum displacement of the TSPs under accident conditions. The proposed structural modifications consist of expanding a limited number of SG tubes only on the hot leg side of the TSP, at each of the intersections of the tubes with the TSPs. The purpose of this approach would be to greatly reduce the probability of SG tube burst under postulated accident conditions by several orders of magnitude. There would be a negligible impact on the primary-to-secondary SG tube leakage under accident conditions.

While the voltage-based repair criteria for ODSCC flaws are applicable only to Byron 1 and Braidwood 1, the pending request for license amendments involves all four units in that both stations have a common set of TSs. Date of publication of individual notice in Federal Register: September 27, 1995 (60 FR 49963)

Expiration date of individual notice: October 27, 1995

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Grundy County, Illinois

Date of amendment request: September 1, 1995

Description of amendment request: The proposed amendment would upgrade the Dresden TS to the standard Technical Specifications (STS) contained in NUREG-0123. The Technical Specification Upgrade Program (TSUP) is not a complete adaption of the STS. The TS upgrade focuses on (1) integrating additional information such as equipment operability requirements during shutdown conditions, (2) clarifying requirements such as limiting conditions for operation and action statements utilizing STS terminology, (3) deleting superseded requirements and modifications to the TS based on the licensee's responses to Generic Letters (GL), and (4) relocating specific items to more appropriate TS locations. The September 1, 1995, application proposed to upgrade only Section 6.0 (Administrative Controls) of the Dresden TS.Date of publication of individual notice in Federal Register: September 20, 1995 (60 FR 48728)

Expiration date of individual notice: October 20, 1995

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: September 13, 1995

Brief description of amendment request: The proposed amendments would revise the Administrative Controls section and the Bases section of the Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS-1 and BVPS-2), technical specifications to be consistent with the requirements of the Offsite Dose Calculation Manual (ODCM). The ODCM was recently updated to reflect the radioactive liquid and gaseous effluent release limits and the liquid holdup tank activity limit of BVPS-1 License Amendment No. 188 and BVPS-2 License Amendment No. 70 which were issued June 12, 1995.Date of publication of individual notice in **Federal Register:** September 22, 1995 (60 FR 49292)

Expiration date of individual notice: October 23, 1995

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of amendment request: September 1, 1995

Brief description of amendment request: The proposed amendment would delete License Condition 2.C.(5) from Facility Operating License DPR-56 which restricts power levels to no less than seventy percent in the coastdown condition.

Date of publication of individual notice in **Federal Register:** September 19, 1995 (60 FR 48530)

Expiration date of individual notice: October 18, 1995

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: December 7, 1994, as supplemented by letter dated August 1, 1995.

Brief description of amendments: The amendments change Note 5 to Table 4.3-1 of Technical Specification 3/4.3.1 to allow verification of the shape-annealing matrix elements used in the core protection calculators. This provides the option of using generic shape-annealing matrix elements in the core protection calculators. Presently, cycle-specific shape-annealing elements are determined during startup testing after each core reload. Use of a generic shape-annealing matrix eliminates several hours of critical path work during startup after a refueling outage.

Date of issuance: September 20, 1995

Effective date: September 20, 1995

Amendment Nos.: Unit 1 - Amendment No. 100; Unit 2 - Amendment No. 88; Unit 3 - Amendment No. 71

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 4, 1995 (60 FR 495). The August 1, 1995, supplemental letter provided clarifying information and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 20, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: March 26, 1993, as supplemented May 15, 1995

Brief description of amendments: These amendments upgrade the current custom Technical Specifications (TS) for Dresden and Quad Cities to the Standard Technical Specifications contained in NUREG-0123, ''Standard Technical Specification General Electric Plants BWR/4.'' These amendments upgrade only Section 3/4.9 (Electrical Power Systems). These amendments include the relocation of some TS requirements to licensee-controlled documents.

Date of issuance: September 18, 1995

Effective date: Immediately, to be implemented no later than December 31, 1995, for Dresden Nuclear Power Station and June 30, 1996, for Quad Cities Nuclear Power Station.

Amendment Nos.: 138, 132, 160, 156

Facility Operating License Nos. DPR-19, DPR-25, DPR-29 and DPR-30. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 19, 1994 (59 FR 2864) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 18, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: for Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: December 8, 1992, as supplemented September 10, 1993, and May 17, 1995.

Brief description of amendments: This application upgrades the current custom Technical Specifications (TS) for Dresden and Quad Cities to the Standard Technical Specifications (STS) contained in NUREG-0123, ''Standard Technical Specification General Electric Plants BWR/4.'' This application upgrades only Section 3/4.1 (Reactor Protection System). Date of issuance:

September 20, 1995Effective date: Immediately, to be implemented no later than December 31, 1995, for Dresden Station and June 30, 1996, for Quad Cities Station.

Amendment Nos.: 139, 133, 161, and 157

Facility Operating License Nos. DPR-19, DPR-25, DPR-29 and DPR-30. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 6, 1995 (60 FR 29872) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 20, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: for Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: September 17, 1993, as supplemented June 30, 1995.

Brief description of amendments: This application upgrades the current custom Technical Specifications (TS) for Dresden and Quad Cities to the Standard Technical Specifications (STS) contained in NUREG-0123, ''Standard Technical Specification General Electric Plants BWR/4.'' This application upgrades only Section 3/4.6.

Date of issuance: September 21, 1995

Effective date: Immediately, to be implemented no later than December 31, 1995, for Dresden Station and June 30, 1996, for Quad Cities Station.

Amendment Nos.: 140, 134, 162, and 158

Facility Operating License Nos. DPR-19, DPR-25, DPR-29 and DPR-30. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 19, 1995 (60 FR 37087) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 21, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: for Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: April 11, 1995

Brief description of amendments: The amendments allow a one-time extension of specific LaSalle, Units 1 and 2, 18-month Technical Specification Surveillance Requirements to allow surveillance testing to coincide with the LaSalle, Unit 1, seventh refueling outage (L1R07). The shutdown for L1R07 has been rescheduled from September 1995 until early 1996. The proposed extensions apply to calibrations and functional testing of isolation actuation instrumentation, emergency core cooling system actuation instrumentation, and recirculation pump trip actuation instrumentation; leakage testing of reactor coolant system isolation valves; inspection of fire-rated seals; functional testing of mechanical snubbers; inspections of emergency diesel generators; and testing of batteries, battery chargers, and other electrical components.

Date of issuance: September 27, 1995

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 106 and 92

Facility Operating License Nos. NPF-11 and NPF-18: The amendments revised the Facility Operating Licenses.

Date of initial notice in **Federal Register:** July 5, 1995 (60 FR 35066) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 27, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: June 17, 1993, as supplemented July 5, 1995

Brief description of amendments: The amendments revise Technical Specification Section 5.3.1 ''Fuel Assemblies'' in accordance with Generic Letter 90-02, Supplement 1, ''Alternative Requirements For Fuel Assemblies in The Design Features Section of Technical Specifications.''

Date of issuance: September 18, 1995

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance

Amendment Nos.: 135 and 129

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 21, 1993 (58 FR 39048) and ReNoticed August 16, 1995 (60 FR 42601) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 18, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duquesne Light Company, et al., Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: July 11, 1995

Brief description of amendment: This amendment revised the required area of the reactor coolant system overpressure protection system vent from 3.14 square inches to 2.07 square inches which is equal to the relief area of a single power-operated relief valve.

Date of issuance: September 26, 1995

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 193

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 16, 1995 (60 FR 42603) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 26, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

Duquesne Light Company, et al., Docket No. 50-412, Beaver Valley PowerStation, Unit 2, Shippingport, Pennsylvania

Date of application for amendment: July 24, 1995

Brief description of amendment: This amendment revises TS 3/4.4.11, ''Relief Valves,'' and associated Bases to make Unit 2 TS 3/4.4.11 consistent with Unit 1 TS 3/4.4.11 which was revised by Unit 1 License Amendment No. 187 issued on May 15, 1995. The amendment generally reflects the guidance provided in NRC Generic Letter 90-06 and in the NRC's Improved Standard Technical Specifications (NUREG-1431).

Date of issuance: September 18, 1995

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 76

Facility Operating License No. NPF-73: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 16, 1995 (60 FR 42604) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: March 17, 1995

Brief description of amendment: The amendment revises requirements associated with the frequency of containment post-entry visual inspections.

Date of issuance: September 15, 1995

Effective date: September 15, 1995

Amendment No.: 162

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 19, 1995 (60 FR 37089) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 15, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: October 27, 1993

Brief description of amendment: The amendment relocated reactor incore detector requirements from the TSs to the safety analysis report.

Date of issuance: September 15, 1995

Effective date: September 15, 1995

Amendment No.: 163

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 8, 1993 (58 FR 64606) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 15, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: March 17, 1995

Brief description of amendment: The amendment transfers requirements for cycle specific core operating limits from the Technical Specifications to the Core Operating Limits Report. Additionally, a reference to a statistical methodology for determining uncertainties is being changed to reference a methodology that was recently approved by the NRC.

Date of issuance: September 19, 1995

Effective date: September 19, 1995

Amendment No.: 164

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 19, 1995 (60 FR 37088) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: April 4, 1995, as supplemented August 25, 1995

Brief description of amendment: The amendment provides a one-time extension of the reactor coolant pump flywheel inservice inspection.

Date of issuance: September 22, 1995

Effective date: September 22, 1995

Amendment No.: 165

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 5, 1995 (60 FR 35069) The August 25, 1995, submittal did not change the original no significant hazards consideration determination.The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: May 19, 1995 as supplemented July 21, 1995.

Brief description of amendment: The amendment revises the specifications to permit the containment personnel airlock doors to remain open during fuel handling.

Date of issuance: September 28, 1995

Effective date: September 28, 1995

Amendment No.: 166

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 2, 1995 (60 FR 39437) The July 22, 1995, supplement provided clarifying information and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: April 4, 1995, as supplementedSeptember 28, 1995

Brief description of amendment: The amendment removes the requirement to maintain water level 23 feet above irradiated fuel assemblies in the reactor while latching and unlatching control element assemblies.

Date of issuance: September 28, 1995

Effective date: September 28, 1995

Amendment No.: 167

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 16, 1995 (60 FR 42604) The September 28, 1995, submittal provided clarifying information and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 1995. No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: June 22, 1994, as supplemented by letters dated June 28, 1995 and August 22, 1995

Brief description of amendment: The amendment changes the Appendix A TSs by increasing the control room radiation monitor setpoint (CRRMS) to a fixed value of 5.45E-6 micro curies per cubic centimeters instead of being set at two times the background.

Date of issuance: September 27, 1995

Effective date: Septembe 27, 1995

Amendment No.: 114

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 3, 1994 (59 FR 39586) The June 28, 1995 and August 22, 1995, letters provided clarifying information that did not change the originial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 27, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: August 11, 1995

Brief description of amendment: The amendment removes the Technical Specifications for the Makeup, Purification, and Chemical Addition Systems from the Technical Specifications (Section 3.2) and relocates the pertinent design information, including tank volume and boron concentrations, to the TMI-1 Updated Final Safety Analysis Report.

Date of issuance: September 19, 1995

Effective date: September 19, 1995

Amendment No.: 196

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 18, 1995 (60 FR 43172) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 19, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Law/Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: June 9, 1995

Brief description of amendment: The amendment modifies Technical Specification 4.1, ''Site Location,'' to incorporate a description of the exclusion area boundary. The change is necessary to ensure the content of the technical specifications conform to Section 182 of the Atomic Energy Act of 1954.

Date of issuance: September 14, 1995

Effective date: September 14, 1995

Amendment No.: 101

Facility Operating License No. NPF-62: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 19, 1995 (60 FR 37093) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 14, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: July 21, 1995

Brief description of amendment: The amendment revised Technical Specifications Section 6.0 (Administrative Controls) to replace the title-specific list of members on the Plant Operating Review Committee (PORC) with a more general statement of membership requirements. The scope of disciplines represented on the PORC was also expanded to include nuclear licensing and quality assurance. The amendment also changed the title ''Resident Manager'' to ''Site Executive Officer.'' This title change was an administrative change that did not affect the reporting relationship, authority, or responsibility of the position.

Date of issuance: September 20, 1995

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 163

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 16, 1995 (60 FR 42606) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: April 25, 1994

Brief description of amendment: This amendment revises TS Section 3.8.1.1, ''A.C. Sources - Operating,'' TS Section 3.8.1.2, ''A.C. Sources - Shutdown,'' and associated Bases, to increase the required quantity of fuel in the Emergency Diesel Generator Fuel Oil Day Tanks from 200 to 360 gallons.

Date of issuance: September 15, 1995

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 79

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 8, 1994 (59 FR 29632)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 15, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: January 20, 1995

Brief description of amendment: This amendment changes Technical Specification (TS) 4.1.3.1.2.b, ''Control Rods - Surveillance Requirement'' to change the required action to be taken when a control rod becomes immovable due to excessive friction from ''at least once per'' 24 hours to ''within'' 24 hours.

Date of issuance: September 20, 1995

Effective date: As of its date of issuance, to be implemented within 60 days.

Amendment No.: 80

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 2, 1995 (60 FR 39452) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: January 11, 1995

Brief description of amendment: This amendment changes Technical Specification (TS) 3/4.3.8, ''Turbine Overspeed Protection System,'' removing these requirements from the TS and relocating the Bases to the Hope Creek Updated Final Safety Analysis Report (UFSAR) and the Surveillance Requirements to the applicable surveillance procedures. The Limiting Conditions for Operation (LCOs) are eliminated.

Date of issuance: September 25, 1995

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 81

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 2, 1995 (60 FR 39451). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: September 29, 1994

Brief description of amendment: This amendment changes Technical Specification (TS) Sections 3/4.3.7.2, ''Seismic Monitoring Instrumentation,'' and 3/4.3.7.3, ''Meteorological Instrumentation,'' to remove the requirements from the TS and relocate the appropriate descriptive information and testing requirements to the Hope Creek Updated Final Safety Analysis Report.

Date of issuance: September 25, 1995

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 82

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 2, 1995 (60 FR 39449). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: September 20, 1994

Brief description of amendments: The amendments change the Channel Functional Test surveillance frequency for the Manual Reactor Trip Switches and Reactor Trip Breakers (RTB) and relocate the RTB maintenance requirements from the Technical Specifications to the Salem Updated Final Safety Analysis Report.

Date of issuance: September 18, 1995

Effective date: Both units, as of the date of issuance, to be implemented within 60 days.

Amendment Nos.: 176 and 157

Facility Operating License Nos. DPR-70 and DPR-75. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 9, 1994 (59 FR 55890 The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 18, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: January 21, 1994, as supplemented June 28 and September 13, 1994, and April 4, 1995.

Brief description of amendments: Revised Technical Specifications 3.8.2.3, ''125-Volt D.C. DISTRIBUTION - OPERATING.''

Date of issuance: September 19, 1995

Effective date: Both units, as of the day of issuance and shall be implemented within 60 days.

Amendment Nos.: 177 and 158

Facility Operating License Nos. DPR-70 and DPR-75. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 28, 1994 (58 FR 22012) The June 28 and September 13, 1994, and April 4, 1995 letters provided clarifying information that did not change the scope of the January 21, 1994 application and initial proposed no significant hazards consideration determination, nor go beyond the scope of the **Federal Register notice.** The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 19, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: June 19, 1995, as supplemented on August 21, 1995.

Brief description of amendment: The amendment revises the Technical Specifications to change the required test frequency for the reactor building spray nozzle flow test from once per five years to once per ten years.

Date of issuance: September 18, 1995

Effective date: September 18, 1995

Amendment No.: 127

Facility Operating License No. NPF-12: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** July 19, 1995 (60 FR 37100). The August 21, 1995 letter provided supplemental information that did not change the initial proposed no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: July 28, 1995

Brief description of amendment: The amendment revises the Technical Specifications to exclude the requirement to perform the slave relay test of the 36-inch containment purge supply and exhaust valves on a quarterly basis while the plant is in Modes 1, 2, 3, or 4.

Date of issuance: September 18, 1995

Effective date: September 18, 1995

Amendment No.: 128

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** August 16, 1995 (60 FR 42608) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: June 19, 1995, as supplemented on August 21, 1995.

Brief description of amendment: The amendment revises the Technical Specifications to change the required test frequency for the reactor building spray nozzle flow test from once per five years to once per ten years.

Date of issuance: September 18, 1995

Effective date: September 18, 1995

Amendment No.: 129

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** July 19, 1995 (60 FR 37100). The August 21, 1995 letter provided supplemental information that did not change the initial proposed no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: April 3, 1995

Brief description of amendment: The amendment revised the Technical Specifications (TS) to relocate radiological effluent and radiological environmental monitoring TS to the Offsite Dose Calculation Manual or to the Process Control Program. Programmatic controls for radioactive effluent and radiological environmental monitoring were included in TS 6.8.4.

Date of issuance: September 15, 1995

Effective date: September 15, 1995

Amendment No.: 72

Facility Operating License No. NPF-58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 10, 1995 (60 FR 24921) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 15, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: June 1, 1995

Brief description of amendment: The amendment revised the Technical Specifications to make them more restrictive regarding control rod drive scram time testing. CRD scram time testing would be required following maintenance prior to considering the CRD operable, and could be performed at any reactor pressure. Additional testing would be required when reactor coolant pressure is greater than or equal to 950 psig and prior to 40 percent rated thermal power.

Date of issuance: September 26, 1995

Effective date: September 26, 1995

Amendment No. 73

Facility Operating License No. NPF-58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 2, 1995 (60 FR 39452) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 26, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: January 14, 1992, as supplemented by letters dated February 10, 1995, and August 16, 1995.

Brief description of amendment: The amendment revises technical specification surveillance requirements regarding demonstration of jet pump operability and corrects several administrative discrepancies.

Date of issuance: September 18, 1995

Effective date: September 18, 1995, to be implemented within 30 days of issuance

Amendment No.: 141

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 27, 1992 (57 FR 22272) and March 29, 1995 (60 FR 16204). The August 16, 1995, supplemental letter provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Dated at Rockville, Maryland, this 3rd day of October 1995.

For the Nuclear Regulatory Commission

Elinor G. Adensam,

Deputy Director, Division of Reactor Projects - III/IV, Office of Nuclear Reactor Regulation

[Doc. 95–25006 Filed 10–10–95; 8:45 am]

BILLING CODE 7590–01–F

[Docket No. 50–251]

Florida Power and Light Company (Turkey Point Unit 4); Exemption

I

Florida Power and Light Company (the licensee) is the holder of Facility Operating License No. DPR–41, which authorizes operation of Turkey Point Unit 4 (the facility), at a steady-state

reactor power level not in excess of 2200 megawatts thermal. The facility is a pressurized water reactor located at the licensee's site in Dade County, Florida. The license provides among other things, that it is subject to all rules, regulations, and Orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 requires the performance of three Type A containment integrated leakage rate tests (ILRTs) of the primary containment, at approximately equal intervals during each 10-year service period.

III

By letter dated August 8, 1995, and revised by letter dated September 6, 1995, the licensee requested an exemption from the requirements pertaining to the Type A testing interval required by 10 CFR 50 Appendix J. This section requires the performance of three Type A tests of the primary containment at approximately equal intervals during each 10-year service period. The requested exemption would permit a one-time interval extension of the Type A test by one refueling outage (from the March 1996 refueling outage, to the October 1997 refueling outage).

The licensee's request cites the special circumstances of 10 CFR 50.12, paragraph (a)(2)(ii) as the basis for the exemption. The licensee points out that the existing Type B and C testing programs are not being modified by this request and allowing a one-time scheduler exemption will not reduce the current level of safety since the Type A test frequency does not alter the containment leak rates.

IV

In the licensee's August 8, 1995, as revised by letter dated September 6, 1995, exemption request, the licensee stated that special circumstance 50.12(a)(2)(ii) is applicable to this situation, i.e., that application of the regulation is not necessary to achieve the underlying purpose of the rule.

Appendix J states that the leakage test requirements provide for periodic verification by tests of the leak tight integrity of the primary reactor containment. Appendix J further states that the purpose of the tests ''is to assure that leakage through the primary reactor containment shall not exceed the allowable leakage rate values as specified in the Technical Specifications or associated bases.'' Thus, the underlying purpose of the requirement to perform Type A containment leak rate tests at intervals during the 10-year service period is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or becoming unknown.

The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. It has been the experience at Turkey Point Unit 4 during the Type A tests conducted from 1982 to date, that the Type A tests have demonstrated that the reactor containment buildings have acceptable leak rates that are far below the leak rates assumed in the site's offsite dose calculation and the ILRT acceptance criteria. The licensee has reported that the test results are approximately one-third to one-fourth of the leakage assumed in offsite dose rate calculations (0.25%) and approximately one-half to one-third of the acceptance criteria for the ILRT (0.1875%). The leak rate data from these tests do not show an increasing trend, indicating that the containment liner and isolation system are stable and supporting the conclusion that a one-time scheduler exemption will not reduce the current level of safety.

The licensee will perform the general containment inspection although it is only required by Appendix J (Section V.A.) to be performed in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary.

The NRC staff has also made use of a draft staff report, NUREG–1493, which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The integrated leakage rate test, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by local leakage rate tests (Type B and C). According to results given in NUREG–1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only 5 ILRT failures were found which local leakage rate testing could not detect. This is 3% of all failures. This study agrees well with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded $1.0L_a$. Of these, only nine were not due to Type B or C leakage penalties. The NEI data also added another perspective. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than $2L_a$; in one case the leakage was found to be approximately $2L_a$; in one case the as-found leakage was less than $3L_a$; one case approached $10L_a$; and in one case the leakage was found to be approximately $21L_a$. For about half of the failed ILRTs the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding to L_a (approximately $200L_a$, as discussed in NUREG–1493). Therefore, based on those considerations, it is unlikely that an extension of one cycle for the performance of the Appendix J, Type A test at Turkey Point Unit 4 would result in significant degradation of the overall containment integrity. As a result, the application of the regulation in these particular circumstances is not needed to achieve the underlying purpose of the rule.

Based on generic and plant-specific data, the NRC staff finds the basis for the licensee's proposed exemption to allow a one-time exemption to permit a schedular extension of one cycle for the performance of the Appendix J Type A test, provided that the general containment inspection is performed, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (60 FR 49926).

This Exemption is effective upon issuance and shall expire at the completion of the 1997 refueling outage.

Dated at Rockville, Maryland, this 27th day of September 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–25148 Filed 10–10–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–298]

Nebraska Public Power District, Cooper Nuclear Station Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of the Nebraska Public Power District, (the licensee) to withdraw its August 31, 1993, application for proposed amendment to Facility Operating License No. DPR–46 for the Cooper Nuclear Station, located in Nemaha County, Nebraska.

The proposed amendment would have modified the facility technical specifications pertaining to the standby gas treatment system, secondary containment, and primary containment isolation valves.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on October 13, 1993 (58 FR 52988). Subsequently, the licensee informed the staff that the amendment is no longer required. Thus, the amendment application is considered to be withdrawn by the licensee.

For further details with respect to this action, see (1) the application for amendment dated August 31, 1993, and (2) the staff's letters dated September 19, 1995, and October 2, 1995.

The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Rockville, Maryland, this 2nd day of October 1995.

For the Nuclear Regulatory Commission.

James R. Hall,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–25147 Filed 10–10–95; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21388; No. 812–8884]

Alexander Hamilton Life Insurance Company of America, et al.

October 3, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Alexander Hamilton Life Insurance Company of America (''Alexander Hamilton''), Alexander Hamilton Variable Annuity Separate Account (''Separate Account''), and FMG Distributors, Inc. (''FMG'').

RELEVANT 1940 ACT SECTION: Order requested under Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of mortality and expense risk charges from the assets of the Separate Account in connection with the offering of a variable annuity contract (''Contract''). Exemptions also are requested for any broker-dealers who may, in the future, act as principal underwriters of the Contract.

FILING DATE: The application was filed on March 10, 1994 and declared inactive on May 1, 1995. The application was amended and reactivated on May 8, 1995, and further amended on September 7, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 30, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Paul Shay, Esq., General Counsel, Alexander Hamilton Life Insurance Company of America, 33045 Hamilton Court, Farmington Hills, Michigan 48334–3358.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representation

1. Alexander Hamilton is a stock life insurance company licensed to do business in Canada, the District of Columbia and all states except New York. Alexander Hamilton is a wholly-owned subsidiary of Household Group, Inc., which is an indirect wholly-owned subsidiary of Household International, Inc., a diversified financial services holding company.

2. Alexander Hamilton established the Separate Account under the laws of Michigan. A registration statement to register the Separate Account under the 1940 Act as a unit investment trust has been filed with the Commission (File No. 33–75714).[1]

The Separate Account presently has nine sub-accounts (''Sub-Accounts'') investing exclusively in shares of a corresponding portfolio of: (a) Alexander Hamilton Variable Insurance Trust (''Trust''); and (b) the Prime Money Fund (''Prime Fund''), part of Federated Investors Insurance Management Series (''Federated''), which is a management investment company. (The Trust and Prime Fund together referred to as ''Funds.'') Other sub-accounts may be established in the future to invest in other portfolios of the Funds or in portfolios of other affiliated or unaffiliated investment companies or unit investment trusts.

3. FMG will serve as distributor and principal underwriter of the Contract. FMG is not otherwise affiliated with the other Applicants. FMG is registered under the Securities Exchange Act of 1934 (''1934 Act'') as a broker-dealer and is a member of the National Association of Securities Dealers, Inc. (''NASD''). Other broker-dealers that are registered under the 1934 Act as broker-dealers and that are members of the NASD also may serve as distributors and principal underwriters of the Contract.

4. The Trust and Federated each are registered under the 1940 Act as an open-end management investment company of the series type as defined by Rule 18f–2 under the 1940 Act. Investment options offered under the Contract include eight Trust portfolios and Federated's Prime Fund. Alexander Hamilton Capital Management, Inc. and Federated Advisers, each a registered investment adviser under the Investment Advisers Act of 1940, are the investment advisers for the Trust and for the Prime Fund, respectively. A separate class of shares of beneficial interest, which have been registered as securities under the 1933 Act on Form

[1] Applicants incorporate by reference the registration statement for the Separate Account.

N–1A, is issued in connection with each investment portfolio offered under the Contract.

5. The Contract is a flexible premium deferred multi-funded variable annuity which can be purchased on a non-tax qualified basis or in connection with certain retirement plans that qualify for special federal tax treatment under Sections 401, 403(b), 408 or 457 of the Internal Revenue Code of 1986, as amended. The Contract provides for a minimum initial premium payment and for optional subsequent premium payments. Under the Contract, premium payments may be allocated to: (a) The Sub-Accounts; (b) one or more ''Interest Rate Guarantee Periods'' of the Capital Developer Account; [2] or (c) a combination of up to ten of these options. The Contract value of the Contract will be: (a) The sum of the value of all accumulation units in the Separate Account, which will vary in accordance with the investment performance of the Sub-Account(s) selected by the Contract owner; and (b) the amounts in the Capital Developer Account, which will be guaranteed as to principal and interest, although a Market Value Adjustment (''MVA'') may apply.

6. The Contract also provides for: (a) A death benefit, which is selected by the Contract owner or beneficiary from among several payment options; and (b) a periodic fixed and/or variable or other annuity payment option plan of payment offered by Alexander Hamilton before the maturity date of a Contract. The death benefit for a Contract owner who dies at age 75 or less is equal to the greatest of: (a) all premium payments, less ''adjusted partial withdrawals,'' [3] with interest compounded at 4% per year; (b) Contract value as of the most recent Contract anniversary before age 75 that is a multiple of five Contract years, plus premium payments and less any adjusted partial withdrawals made since that Contract anniversary; [4] and (c) Contract value as of the date Alexander Hamilton receives satisfactory proof of death and election of an annuity payment option. The death benefit for a Contract owner who dies at an age greater than 75 is equal to the Contract value on the date Alexander Hamilton receives satisfactory proof of death, election of a payment option and return of a Contract.

7. The following fees and charges are deducted under a Contract.

a. Annual Administrative Charge

An annual charge of the lesser of $30 or 2% of Separate Account value is deducted from Separate Account value on the first day of each Contract year and upon full surrender of a Contract, but not after the maturity date, to compensate Alexander Hamilton for the administrative services provided to Contract owners. Alexander Hamilton does not anticipate any profit from this charge, which is guaranteed not to increase for the duration of the Contract. Applicants intend to rely on Rule 26a–1 under the 1940 Act to deduct this charge.

b. Contingent Deferred Sales Charge (''CDSC'')

No sales charge currently is deducted from premium payments. A declining CDSC of up to 7% will be imposed as a percentage of Contract value withdrawn or surrendered during the first eight Contract years, or annuitized during the first Contract year, to pay Contract distribution expenses. The CDSC as a percentage of each premium payment is determined as follows:

Surrender charge (as a % of the premium payment being withdrawn)	Complete years since receipt of premium
7	0–1
7	2
6	3
5	4
4	5
3	6
2	7
1	8
0	9 and above

In no event will the CDSC exceed 8.5% of total premium payments. Additionally, during the first eight Contract years, up to 10% Contract value surrendered or withdrawn or annuitized during that Contract year will be exempt from any CDSC (but not from any MVA).

c. Market Value Adjustment

An MVA may be imposed on the partial withdrawal, full surrender or transfer to the Separate Account of any amount from the Capital Developer Account during an Interest Rate Guarantee Period.[5] The MVA will never reduce Capital Development Account Value to an amount less than amounts allocated to that Account accumulated at an annual interest rate of 3%. No MVA will be applied during the last 30 days of an Interest Rate Guarantee Period.

d. Mortality and Expense Risk Charge

A daily mortality and expense risk charge will be deducted at an annual rate of 1.25% (of which 0.50% is allocable to mortality risks and 0.75% to expense risks) of the value of the net assets in the Separate Account. The mortality and expense risk charge may be a source of profit for Alexander Hamilton and the excess may be used for, among other things, the payment of distribution expenses.

This charge is imposed to compensate Alexander Hamilton for bearing certain mortality and expense risks under the Contract. Alexander Hamilton will assume two mortality risks under the Contract: (a) That the annuity rates under the Contract cannot be changed to the detriment of Contract owners even if annuitants live longer than projected; and (b) that Alexander Hamilton may be obligated to pay a death benefit claim in excess of a Contract's value at the time of payment. The expense risk assumed by Alexander Hamilton is the risk that its actual administration costs will exceed the amount recovered through the administrative charges.

e. Administrative Expense Charge

A daily administrative charge is deducted from the assets of the Separate Account at an annual rate of 0.15% to compensate Alexander Hamilton for certain expenses it incurs in administration of the Contract and the Separate Account. Applicants represent that the charge will reimburse Alexander Hamilton only for administrative costs expected to be incurred over the life of the Contract. Alexander Hamilton does not anticipate any profit from this charge, which is guaranteed not to increase for the duration of the Contract. Applicants represent that this charge will be deducted in reliance on Rule 26a–1 under the 1940 Act.

f. Transfer Charge

Currently, Alexander Hamilton has no plans to impose a transfer charge. However, Alexander Hamilton reserves

[2] Applicants represent that the Capital Developer Account option under the Contract is not being registered under the 1933 Act in reliance upon Section 3(a)(8) thereof.

[3] The ''adjusted partial withdrawal'' for each partial withdrawal is the product of (a) times (b) where: (a) is the ratio of the amount of the partial withdrawal to the Contract value on the date of, but prior to, the partial withdrawal; and (b) is the death benefit on the date of, but prior to, the partial withdrawal.

[4] For purposes of (a) and (b), above, the Death Benefit will be calculated as of the date of the owner's death and never will be greater than 200% of all premium payments, less withdrawals.

[5] The MVA will reflect the relationship between: (a) the Treasury Rate for the Interest Rate Guarantee Period; and (b) the guaranteed interest rate applicable to the Interest Rate Guarantee Period from which the partial withdrawal, surrender or transfer is made at the time of the transaction.

the right to impose a $10 charge for each transfer in excess of fifteen during any Contract year.[6]

g. Premium Taxes

A premium tax charge ranging from 0% to 3.5% of premiums or Contract value will be deducted under the Contract if Alexander Hamilton is required to pay premium taxes to various states and local jurisdictions. The deduction will be made when Alexander Hamilton is required to pay the premium tax and may be made from premium payments, upon surrender or at annuitization.

h. Deductions for Other Taxes

No charge currently is imposed for federal, state or local income taxes attributable to the Separate Account, other than premium taxes. Alexander Hamilton may make such deductions for such taxes or the economic burden thereof in the future, subject to necessary regulatory approvals.

i. Expenses of the Trust and Fund

Net assets of the Separate Account will reflect the investment advisory fee and other expenses incurred by the Trust and Funds, respectively.

Applicants' Legal Analysis

1. Applicants request an order under Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof to permit the assessment of charges for mortality and expense risks under the Contract. Applicants also seek exemptive relief for broker-dealers who, in the future, may act as principal underwriters of the Contract.

2. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the 1940 Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangement which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

4. Applicants submit that their request for an order is appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the 1940 Act. Applicants further submit that the terms of the relief requested with respect to future underwriters issuing the Contract are consistent with the standards of Section 6(c) of the 1940 Act. Applicants assert that, without the requested relief, Alexander Hamilton would have to request and obtain exemptive relief for each new principal underwriter that distributes the Contract. Applicants represent that such additional requests for exemptive relief would present no issues under the 1940 Act that have not already been addressed in this application.

5. Applicants further state that the requested relief is appropriate in the public interest because it would promote competitiveness in the variable annuity market by eliminating the need for Alexander Hamilton to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. Investors would not receive any benefit or additional protection by requiring Alexander Hamilton to seek exemptive relief repeatedly with respect to the same issues addressed in this Application. Applicants assert that the delay and expense involved would impair Alexander Hamilton's ability to take effective advantage of business opportunities as they arise and would disadvantage investors as a result of Alexander Hamilton's increased overhead expenses.

6. Applicants submit that the mortality and expense risk charges are reasonable and proper insurance charges. Alexander Hamilton guarantees certain risks in return for these charges. The mortality and expense risk charge is a reasonable charge to compensate Alexander Hamilton for: the risk that annuitants under the Contract will live longer than has been anticipated in setting the annuity rates guaranteed in the Contract; the risk that the death benefit will be greater than the Contract value; the risk created by the inapplicability of a CDSC to amounts paid as a death benefit; and the risk that administrative expenses will be greater than amounts derived from both the Administrative Expense Charge and the Annual Administrative Fee.

7. Applicants represent that the charge of 1.25% for mortality and expense risks is within the range of industry practice for comparable variable annuity contracts. The representation is based upon Alexander Hamilton's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees and guaranteed annuity rates. Alexander Hamilton will maintain at its administrative offices, and make available to the Commission upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and result of, its comparative survey.

8. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge under the Contract, all or a portion of such profit may be available to pay distribution expenses not reimbursed by the CDSC. Alexander Hamilton has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Separate Account and Contract owners. Alexander Hamilton will keep at its administrative offices and make available to the Commission, upon request, a memorandum setting forth the basis for this representation.

9. Applicants represent that the Separate Account will invest only in management investment companies which undertake, in the event any such company adopts a plan under Rule 12b–1 to finance distribution expenses, to have a board of directors, a majority of whom are not interested persons of any such investment company, as defined in the 1940 Act, formulate and approve any plan under Rule 12b–1 under the 1940 Act to finance distribution expenses.

Conclusion

Applicants assert that for the reasons and based upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct a mortality and expense risk charge under the Contract offered by the Separate Account are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

[6] The registration statement, which Applicants have incorporated by reference, provides information about the transfer charge.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–25164 Filed 10–10–95; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974; Report of New Routine Use

AGENCY: Social Security Administration (SSA).

ACTION: New routine use.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a(e)(4) and (11)), we are notifying the public of our intent to add a routine use statement to the systems notices for the following systems of records:

- Black Lung Payment System, 09–60–0045;
- Master Files of Social Security Number (SSN) Holders and SSN Applications, 09–60–0058;
- Earnings Recording and Self-Employment Income System, 09–60–0059;
- Master Beneficiary Record, 09–60–0090;
- Supplemental Security Income Record, 09–60–0103.

We last published a notice in the **Federal Register** pertaining to system 09–60–0045 at 59 FR 46439, September 8, 1994; pertaining to 09–60–0058 at 60 FR 16155, March 29, 1995; pertaining to 09–60–0059 at 59 FR 66551, December 27, 1994; pertaining to 09–60–0090 and 09–60–0103 at 60 FR 2144, January 6, 1995.

The proposed routine use will permit SSA to disclose information about individuals without their consent to parties conducting epidemiological and similar research when those disclosures are required by section 1106(d) of the Social Security Act (42 U.S.C. 1306(d)), which was added by section 311 of the Social Security Independence and Program Improvements Act of 1994, Pub. L. No. 103–296 (SSIPIA), and amended by section 108(b) of the SSIPIA.

We invite public comments on this publication.

DATES: We filed a report of an altered system of records with the Senate Committee on Governmental Affairs, the House Committee on Government Reform and Oversight, and the Office of Management and Budget, Office of Information and Regulatory Affairs, on September 29, 1995. The proposed routine use will become effective as proposed, without further notice, on November 20, 1995, unless we receive comments on or before that date which would warrant our preventing the alteration from taking effect.

ADDRESSES: Interested individuals may comment on this proposal by writing to the SSA Privacy Officer. The mailing address is 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235; telephone 410–965–1736. Comments may be faxed to 410–966–0869. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Peter J. Benson, Office of Disclosure Policy, 6401 Security Boulevard, Baltimore, Maryland 21235; telephone 410–965–1736.

SUPPLEMENTARY INFORMATION:

A. Background of the Proposed Routine Use

SSA previously disclosed information about vital status and verified SSNs for epidemiological and similar research, under the Freedom of Information Act (FOIA, 5 U.S.C. 552). We applied a balancing test to determine whether such information was exempt from disclosure under 5 U.S.C. 552(b)(6), under which we weighed the public interest in disclosure against individual privacy interests. Using this test, we determined that disclosures for epidemiological research were required under the FOIA.

However, the Supreme Court, in United States Department of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749 (1989), determined that the only public interest in disclosure that could be considered under the balancing test of exemption (b)(6) of the FOIA was whether the disclosure would inform the public of how the Federal government carries out its statutory obligations. As a result of this ruling, we discontinued making disclosures for epidemiological research under the FOIA, because those disclosures do not serve the public interest identified in the Reporters Committee ruling.

Section 311 of the SSIPIA, enacted in 1994, added a new subsection (d) to section 1106 of the Social Security Act. The new section 1106(d), as further amended by section 108(b) of the SSIPIA, requires SSA to disclose upon request ''information regarding whether an individual is shown on the records of [SSA] as being alive or deceased * * * for purposes of epidemiological or similar research * * *'' when certain conditions are met:

- SSA, in consultation with the Department of Health and Human Services, finds that the research involved ''may reasonably be expected to contribute to a national health interest;''
- The requesting party agrees to reimburse SSA for the cost of providing the information; and
- The requesting party agrees to comply with safeguards and limitations specified by SSA on rerelease and redisclosure of such information.

SSA may not disclose under section 1106(d) of the Social Security Act (42 U.S.C. 1306(d)) information concerning an individual's death if such disclosure would violate a contract between SSA and the State which furnished such information under section 205(r) of the Social Security Act (42 U.S.C. 405(r)).

Hence, SSA now proposes to resume disclosing, for epidemiological and similar research, information as to whether SSA's records indicate that a person is alive or dead. SSA will not release death information in violation of any contract entered into pursuant to section 205(r) of the Social Security Act.

When a person is not a beneficiary and SSA has no record of death or of recent earnings, the requester will be informed that SSA has no information about the person's vital status.

Specifically, we propose to add the following routine use to the above listed systems:

''Information as to whether an individual is alive or deceased may be disclosed pursuant to section 1106(d) of the Social Security Act (42 U.S.C. 1306(d)), upon request, for purposes of an epidemiological or similar research project, provided that:

(a) SSA determines, in consultation with the Department of Health and Human Services, that the research may reasonably be expected to contribute to a national health interest;

(b) The requester agrees to reimburse SSA for the costs of providing the information; and

(c) The requester agrees to comply with any safeguards and limitations specified by SSA regarding rerelease or redisclosure of the information.''

B. Compatibility of the Proposed Routine Use

The Privacy Act and SSA's disclosure regulation (20 CFR 401.310) permit us to disclose information about individuals without their consent for a routine use, i.e., a use that serves a purpose that is compatible with the purpose for which we collected the information. SSA's regulations also state that SSA will disclose when required by law (20 CFR 401.205).

In section 1106(d) of the Social Security Act (42 U.S.C. 1306(d)), Congress has established that epidemiological and similar research is an authorized use of information in SSA's records that indicate that a person is alive or dead. Section 1106(d) thus establishes the compatibility of the purposes of that research with the purposes for which SSA collects those records.

Moreover, § 401.325 of the disclosure regulation permits us to disclose information under a routine use for statistical and research purposes if:

- We determine that the researcher needs the information in an identifiable form and will protect individuals from unreasonable and unwanted contacts;
- The activity is designed to increase knowledge about Social Security programs or other Federal or State income maintenance or health-maintenance programs or consists of epidemiological or similar research; and
- The recipient agrees to keep the information as a system of statistical records, to follow appropriate safeguards, to allow our on-site inspection of those safeguards so that we can be sure the information is used or redisclosed only for statistical or research purposes, and to obtain our approval before redisclosing the information.

Before releasing information to a requester for epidemiological or similar research under the proposed routine use statement, we will execute an agreement with the researcher, containing the safeguards and restrictions required by section 1106(d) of the Social Security Act and § 401.325 of the regulations.

C. Effect of the Proposed Alteration on the Privacy of Individuals

Under section 1106(d) of the Social Security Act, added by the SSIPIA, researchers must agree to comply with any restrictions imposed by SSA regarding safeguarding of the information and limiting redisclosures as a condition of receiving information under this routine use. Thus, we do not anticipate that any adverse effects on the privacy of individuals will result from disclosures under the routine use statement proposed in this notice.

Dated: September 29, 1995.

Shirley S. Chater,

Commissioner of Social Security.

[FR Doc. 95–25174 Filed 10–10–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–066]

National Environmental Policy Act Environmental Assessment for U.S. Coast Guard Activities Along the U.S. Atlantic Coast

AGENCY: Coast Guard, DOT.

ACTION: Notice of reopening of comment period.

SUMMARY: On August 9, 1995, the Coast Guard published a notice of availability and request for comments announcing the availability of an Environmental Assessment (EA) and a proposed Finding of No Significant Impact (FONSI) for public review and comment. Comments were requested on or before September 8, 1995. Due to delays in finalizing and mailing requested copies of the EA, the comment period is being reopened. Copies have been sent to all who requested them in response to the August notice.

DATES: Comments must be received on or before October 27, 1995.

ADDRESSES: Comments or questions may be mailed or delivered to LCDR Wesley Marquardt, U.S. Coast Guard, Commandant (G–Nd), 2100 Second Street, SW., Washington, DC 20593–0001. Comments received will be available for inspection and copying in room 1202–A at the address listed above. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Wesley Marquardt, U.S. Coast Guard, Office of Navigation Safety and Waterway Services, (202) 267–1454.

SUPPLEMENTARY INFORMATION: The EA and proposed FONSI have been prepared for Coast Guard operations in the marine environment of the Atlantic coast from the northern tip of Maine south to Puerto Rico. The EA focuses on six whale and five turtle threatened or endangered species. The notice of availability and request for comments invited invited and encouraged interested persons to participate in the public review process. Comments should specifically identify the environmental issues, topics, or information in the EA and proposed FONSI to which the comment applies. Comments, questions, or requests for copies of the EA and the proposed FONSI should be mailed or delivered to LCDR Wesley Marquardt in the address contained in **ADDRESSES**.

Dated: October 4, 1995.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–25173 Filed 10–10–95; 8:45 am]

BILLING CODE 4919–14–M

Federal Aviation Administration

Notice of Availability of a Draft Environmental Assessment for the Jackson Hole Airport Master Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of a Draft Environmental Assessment.

SUMMARY: The Jackson Hole Airport Board has prepared a Draft Environmental Assessment (EA) for its proposed Master Plan improvements. Jackson Hole Airport is located within Grand Teton National Park in Wyoming. The need for the project arose due to safety concerns as a result of recent incidents of aircraft overrunning the runway, as well as concerns over the degree of congestion which occurs in the terminal building during peak travel periods. The EA addresses the potential environmental effects of a Preferred Alternative and numerous other options. The Preferred Project includes construction of stopways at each runway end, shifting the runway to the north to meet current FAA safety area requirements, retention of the current 6300-foot runway length, expansion of the terminal by 10,000 square feet, improved navigational aids, and the addition of a control tower and radar. All improvements for the Preferred Alternative are within the leased boundary of the Airport. Other alternatives examined in the EA included No Action, navigational aids, runway extensions of various lengths, 1,000 foot stopways, soft material arresting systems, and a 30,000 square foot terminal expansion.

DATES: Written comments addressing the adequacy of the Draft EA will be received through December 13, 1995. Comments should be sent to Mr. George Larson, Airport Director, Jackson Hole Airport, P.O. Box 159, Jackson, WY 83001. Oral and written comments may also be made in person at a public hearing in Jackson, Wyoming scheduled for the afternoon and evening of November 20, 1995. Please call (307) 733–7695 for details on the time and place of this meeting.

ADDRESSES: The Draft EA became available for public review on September 29, 1995. Copies are available for review at Jackson Hole

Airport; Teton County Public Library, 320 So. King St., Jackson, WY; FAA, Denver Airports District Office, 5440 Roslyn St., Ste. 300, Denver, CO; FAA, Airports Division, 1601 Lind Ave. SW, Renton, WA; and at the FAA, Department of Transportation, AGC–200, Rm. 915, 800 Independence Ave. SW, Washington, DC. Individual copies can be ordered at cost by contacting Jackson Hole Airport at (307) 733–7695.

Issued in Renton, Washington on October 3, 1995.

David A. Field,

Acting Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.

[FR Doc. 95–25186 Filed 10–10–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Airport Certification Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss airport certification issues.

DATES: The meeting will be held on October 19, 1995, at 10:00 a.m. Arrange for oral presentations by October 10, 1995.

ADDRESSES: The meeting will be held at FAA Headquarters, Conference Room 600E, 6th Floor, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Marisa Mullen, Federal Aviation Administration, Office of Rulemaking (ARM–205), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9681; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on October 19, 1995, at FAA Headquarters, Conference Room 600E, 6th Floor, 800 Independence Avenue, SW., Washington, DC 20591.

The agenda will include:

- Committee administration.
- Status report from Friction Measurement and Signing Working Group.
- General discussion of working group report.
- Status report from Commuter Airport Certification Working Group.
- Review and dispose working group work plan.
- General discussion of working group report.
- A discussion of future meeting dates, locations, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by October 10, 1995, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listing under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on October 3, 1995.

Robert E. David,

Assistant Executive Director for Airport Certification Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–25190 Filed 10–10–95; 8:45 am]

BILLING CODE 4910–13–M

Research, Engineering and Development Advisory Committee; Subcommittee on Human Factors

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the Subcommittee on Human Factors of the Federal Aviation Administration (FAA) Research, Engineering and Development (R,E&D) Advisory Committee to be held on Wednesday, November 1, 1995, from 9 a.m. to 5 p.m. The meeting will take place in Washington, DC, at the Capital Gallery Building, 600 Maryland Avenue, Fifth Floor, Suite 500.

The agenda for this meeting will include discussion of the role of human factors in the acquisition of systems in the FAA and the operation of systems in the national airspace system.

Attendance is open to the interested public but limited to the space available. With the approval of the subcommittee chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements, obtain information, or attend the meeting should contact Dr. Mark Hofmann, AAR–100, 800 Independence Avenue, SW., Washington, DC at (202) 267–7125, the FAA designated federal office to the subcommittee.

Members of the public may present a written statement to the subcommittee at any time.

Issued in Washington, DC, on October 4, 1995.

Clyde A. Miller,

Manager, Research Division, Coordinator for the FAA R, E&D Advisory Committee.

[FR Doc. 95–25188 Filed 10–10–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In September 1995, there were 10 applications approved. Additionally, three approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Pub. L. 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Board of Trustees of the University of Illinois, Champaign, Illinois.

Application Number: 95–01–C–00–CMI.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $1,154,307.

Estimated Charge Effective Date: December 1, 1995.

Estimated Charge Expiration Date: November 1, 1998.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at University of Illinois—Willard Airport (CMI).

Brief Description of Projects Approved for Collection and Use:

Reimbursement for local share of Part 107 security plan,

Reimbursement for local share of high-speed snow broom,

Reimbursement for acquisition of snow broom,

Reimbursement for local funds used to finance eligible portions of the design

and construction of the snow removal equipment storage maintenance building,
Construction of phase 1 of a mult-phase surface rehabilitation project on primary runway 14R/32L at the intersection with runway 18/36 together with the first 1,200 feet of runway 14R and runway 18/36,
Reimbursement of local share for preparation and administration of PFC program,
Replacement of snow removal, equipment,
Phase II—construction of a surface rehabilitation project on primary runway 14R/32L.

Brief Description of Project Partially Approved for Collection and Use: Reimbursement for advance plans for the construction of a parallel runway to runway 14R/32L and update of Exhibit A.

Determination: This approval is limited to the preparation of plans for the construction of a parallel runway to runway 14R/32L. However, costs associated with the preparation of the Exhibit A property map are considered to be administrative costs specifically related to Airport Improvement Program (AIP) projects. This items is not required for PFC project approval or administration of the PFC program at CMI; therefore, the portion of the project for the preparation of the Exhibit A property map is disapproved for the collection and use of PFC revenue.

Decision Date: September 5, 1995.

FOR FURTHER INFORMATION CONTACT: Philip M. Smithmeyer, Chicago Airports District Office, (708) 294–7434.

Public Agency: Springfield Airport Authority, Springfield, Illinois.

Application Number: 95–05–U–00–SPI.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $64,172.

Charge Effective Date: June 1, 1992.

Estimated Charge Expiration Date: July 1, 2007.

Class of Air Carriers Not Required to Collect PFC's: The Springfield Airport Authority was previously approved, in a decision dated November 24, 1993, to exclude a class of air carriers from the requirement to collect the PFC. This decision does not affect that ruling.

Brief Description of Projects Approved for Use of PFC Revenue:

Rehabilitate taxiway A,
Widen runway 4–22 at both ends,
Acquisition of Miller property,
Security/access modifications to meet Part 107.14 requirements.

Decision Date: September 5, 1995.

FOR FURTHER INFORMATION CONTACT: Philip M. Smithmeyer, Chicago Airports District Office, (703) 294–7435.

Public Agency: County of Delta, Escanaba, Michigan.

Application Number: 95–02–U–00–ESC.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $149,319.

Charge Effective Date: February 1, 1993.

Estimated Charge Expiration Date: December 1, 1997.

Class of Air Carriers Not Required to Collect PFC's: The County of Delta was previously approved, in a decision dated November 17, 1992, to exclude a class of air carriers from the requirement to collect the PFC. This decision does not affect that ruling.

Brief Description of Projects Approved for Use of PFC Revenue:

Acquire land (fee 26.5 acres) including relocation assistance,
Professional engineering services for rehabilitation, widening, extension, and installation of porous friction course for runway 18/36, including medium intensity runway lights (MIRL), and new parallel taxiway, including medium intensity lights,
Rehabilitate, widen, and extend runway 18/36, construct runway 18/36 porous friction course, rehabilitate MIRL.

Decision Date: September 12, 1995.

FOR FURTHER INFORMATION CONTACT: Jon B. Gilbert, Detroit Airports District Office, (313) 487–7281.

Public Agency: City of Rhinelander and County of Oneida, Rhinelander, Wisconsin.

Application Number: 95–02–U–00–RHI.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $38,500.

Charge Effective Date: January 1, 1994.

Estimated Charge Expiration Date: April 1, 1996.

Class of Air Carriers Not Required to Collect PFC's: The City of Rhinelander and County of Oneida were previously approved, in a decision dated August 4, 1993, to exclude a class of air carriers from the requirement to collect the PFC. This decision does not affect that ruling.

Brief Description of Projects Approved for Use of PFC Revenue:

Sanitary sewer and water lines,
Snow removal vehicles.

Decision Date: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Franklin D. Benson, Minneapolis Airports District Office, (612) 725–4221.

Public Agency: Charlottesville-Albemarle Airport Authority, Charlottesville, Virginia.

Application Number: 95–07–I–00–CHO.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $1,047,300.

Charge Effective Date: April 1, 1999.

Estiamted Charge Expiration Date: February 1, 2002.

Classes of Air Carriers Not Required to Collect PFC's: (1) Air taxi/commercial operators filing FAA Form 1800–31; and (2) foreign air carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed classes each account for less than 1 percent of the total annual enplanements at Charlottesville-Albermarle Airport.

Brief Description of Projects Approved for PFC Collection:

Construct additional air carrier ramp,
Reconstruct taxiway A.

Decision Date: September 15, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Mendez, Washington Airports District Office, (703) 285–2570.

Public Agency: Florence City-County Airport Commission, Florence, South Carolina.

Application Number: 95–01–C–00–FLO.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $881,600.

Estimated Charge Effective Date: December 1, 1995.

Estimated Charge Expiration Date: November 1, 1999.

Class of Air Carriers Not Required to Collect PFC's: Air carriers operating under Part 135 or Part 298 on an on-demand, non-scheduled basis, and not selling tickets to the public (air taxis).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Florence Regional Airport.

Brief Description of Projects Approved for Collection and Use of PFC Revenue:

Installation of lighted runway identification signs,
Rehabilitation of MIRL on runway 18/36; overlay taxiway B,
Stormwater drainage/terminal apron,
Abbreviated master plan update,
Terminal expansion and renovation—phase I,

Airfield signage and pavement marking,
New taxiway edge lighting and precision approach path indicators (PAPI–4),
Expansion of the airport access road (relocate and rebuild airport access road).

Decision Date: September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Cathy Nelmes, Atlanta Airports District Office, (404) 305–7148.

Public Agency: Port of Oakland, Oakland, California.

Application Number: 95–04–U–00–OAK.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $15,827,091.

Charge Effective Date: April 1, 1995.

Estimated Charge Expiration Date: September 1, 1996.

Class of Air Carriers Not Required to Collect PFC's: The Port of Oakland was previously approved, in a decision dated December 23, 1994, to exclude a class of air carriers from the requirement to collect the PFC. This decision does not affect that ruling.

Brief Description of Project Approved for Use of PFC Revenue:

Construct aircraft rescue and firefighting (ARFF) facility.

Decision Date: September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriquez, San Francisco Airports District Office, (415) 876–2805.

Public Agency: Tri-State Airport Authority, Huntington, West Virginia.

Application Number: 95–01–C–00–HTS.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $591,300.

Estimated Charge Effective Date: December 1, 1995.

Estimated Charge Expiration Date: March 1, 1998.

Class of Air Carriers Not Required to Collect PFC's: (1) Unscheduled Part 135 charter operators for hire to the general public; (2) unscheduled Part 121 charter operators for hire to the general public.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at Tri-State Airport.

Brief Description of Project Approved for Collection and Use:

Preparation of PFC application and coordination,
Terminal renovations and canopy; access road overlay,
New engine generator for terminal; new engine generator for ARFF building,
Snow removal sweeper unit,
Snow blower,
Taxiway reconstruction and fillet widening (2,300 feet by 50 feet).

Decision Date: September 20, 1995.

FOR FURTHER INFORMATION CONTACT: Elonza Turner, Beckley Airports Field Office, (304) 252–6216.

Public Agency: Virgin Islands Port Authority, St. Thomas, Virgin Islands.

Application Number: 95–03–I–00–STT.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $3,342,000.

Estimated Charge Effective Date: December 1, 1995.

Estimated Charge Expiration Date: December 1, 1997.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Project Approved Collection:

Passenger terminal renovation and expansion at Alexander Hamilton Airport.

Decision Date: September 28, 1995.

FOR FURTHER INFORMATION CONTACT: Ilia A. Quinones, Orlando Airports District Office, (407) 648–6583.

Public Agency: City of Pendleton, Oregon.

Application Number: 95–01–C–00–PDT.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $153,381.

Estimated Charge Effective Date: December 1, 1995.

Estimated Charge Expiration Date: January 1, 2002.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Eastern Oregon Regional Airport.

Brief Description of Project Approved for Collection and Use:

Runway 11/29 shoulder reconstruction,
Security and access improvements,
Airport guidance signs,
New ARFF equipment improvements, acquisition of new proximity suits,
Runway and taxiway marking improvements,
Perimeter safety and security signage,
Master plan update and PFC application preparation,
Terminal building remodel and non-revenue parking lot renovation.

Decision Date: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Don Larson, Seattle Airports District Office, (206) 227–2652.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Amendment approved net PFC revenue	Original approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
92–01–I–01–SRQ, Sarasota, FL	09/08/95	$41,357,000	$38,715,000	09/01/05	03/01/09
94–05–I–01–CHO, Charlottesville, VA	09/14/95	1,650,346	1,524,300	04/01/99	04/01/99
92–01–C–01–SBP, San Luis Obispo, CA	09/28/95	378,587	502,437	02/01/95	02/01/95

Issued in Washington, D.C. on October 4, 1995.

Donna P. Taylor,

Manager, Passenger Facility Charge Branch.

[FR Doc. 95–25187 Filed 10–10–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 12–04]

Delegation of Authority for Budget Execution in the Departmental Offices

September 28, 1995.

1. *Delegation.* Pursuant to sections 3. and 5. of Treasury Order (TO) 102–13, this Directive delegates the authority for budget execution/control of funds in the Departmental Offices (DO).

2. For the purposes of paragraphs 3.a. and 3.c. of TO 102–13, the Deputy Assistant Secretary (Administration) shall perform those functions assigned there to the ''head of bureau'' with respect to the DO other than the Financial Crimes Enforcement Network (FinCEN).

3. The Director, FinCEN:

(a) Is delegated authority to incur obligations and make expenditures within the budgetary resources available to FinCEN consistent with applicable Office of Management and Budget apportionments and reapportionments and other authority to make funds available for obligation;

(b) Is delegated authority to issue sub-allotments or allocations of funds to components of FinCEN; and

(c) Shall maintain a system of administrative control of funds for FinCEN in conformity with the requirements of paragraph 3.c. of TO 102–13.

4. Nothing in this Directive shall be construed to:

a. Apply to the Office of Inspector General or the Treasury Asset Forfeiture Fund; or

b. Change organizational or reporting relationships of DO or FinCEN.

5. *Authority.* TO 102–13, ''Delegation of Authority Concerning Budget Matters,'' dated January 19, 1993.

6. *Cancellation.* Treasury Directive 12–04, ''Delegation of Authority for Budget Execution in the Departmental Offices,'' dated October 18, 1994, is superseded.

7. *Expiration Date.* This Directive expires on October 18, 1997, unless superseded or cancelled prior to that date.

8. *Office of Primary Interest.* Office of Financial and Budget Execution, Office of the Deputy Chief Financial Officer, Office of the Assistant Secretary for Management.

George Muñoz,

Assistant Secretary for Management, Office of Financial and Budget Execution.

[FR Doc. 95–25175 Filed 10–10–95; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Claims Adjudication Commission, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Pub. L. 92–463, gives notice that the Veterans' Claims Adjudication Commission will meet on October 24–26, 1995, at the National Headquarters of the Paralyzed Veterans of America (PVA), 801 18th Street NW, (2nd Floor), Washington, DC. The Commission shall meet on October 24 and 25 from 8:30 a.m. to 4:30 p.m., and on October 26 from 8:30 a.m. to 12 Noon.

On the morning of October 24, the Commission will receive a briefing on the current status of affairs in disability compensation claims processing by the Director, VA Compensation and Pension Service. The Chairman will then lead a discussion on potential new areas of pursuit for the Commission. The afternoon session will consist of discussions of proposed draft preliminary findings and conclusions relating to the VA appellate process and the effectiveness of quality control and assurance practices employed by the Department. On October 25, the Commission will continue its discussions of proposed draft preliminary findings and conclusions, starting with the claims adjudication process and procedures, and followed by the effect of modernizing IRM, the effectiveness of pilot programs, and the effect of attorneys, veterans service organizations and other advocates on the system. On the morning of October 26, the Commission will conclude its discussions regarding draft preliminary findings and conclusions by reviewing the effect of VA's work performance standards and the extent to which Blue Ribbon Panel recommendations have been implemented and the relative effect of such recommendations on the claims adjudication process.

The meeting is open to the public; however, no specific amount of time is allocated for the purpose of receiving oral presentation from the public. The Commission will accept appropriate written comments from interested parties on the subject matter addressed during the meeting. Such comments may be referred to the Commission at the following address: Veterans' Claims Adjudication Commission (20C), U.S. Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420.

Additional information concerning this meeting may be obtained by contact the Commission at (202) 275–2142.

Dated: October 2, 1995.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–25127 Filed 10–10–95; 8:45 am]

BILLING CODE 8320–01–M

Wage Committee; Notice of Meetings

The Department of Veterans Affairs (VA), in accordance with Pub. L. 92–463, gives notice that meetings of the VA Wage Committee will be held on:

Wednesday, October 25, 1995, at 2 p.m.
Wednesday, November 8, 1995, at 2 p.m.
Wednesday, November 22, 1995, at 2 p.m.
Wednesday, December 6, 1995, at 2 p.m.
Wednesday, December 20, 1995, at 2 p.m.

The meetings will be held in Room 1225, Department of Veterans Affairs, Tech World Plaza, 801 I Street, NW, Washington, DC 20001.

The Committee's purpose is to advise the Under Secretary for Health on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Department of Veterans Affairs and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c)(2) and (4).

However, members of the public are invited to submit material in writing to the Chairperson for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairperson, VA Wage Committee, Room 1225, 801 I Street, NW, Washington, DC 20001.

Dated: September 28, 1995.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–25126 Filed 10–10–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 196

Wednesday, October 11, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

DATE AND TIME: October 11, 1995, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois T. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro, 638th Meeting—October 11, 1995, regular Meeting (10:00 a.m.)

CAH–1.
Docket # P–2541, 018, Cascade Power Company
CAH–2.
Docket # P–2975, 015, Tri-Dam Power Authority
CAH–3.
Docket # P–7481, 085, NYSD Ltd. Partnership
CAH–4.
Omitted
CAH–5.
Docket # P–2157, 084, Snohomish County Public Utility District No. 1 and City of Everett, Washington
CAH–6.
Docket # P–2436, 019, Consumers Power Company
Other#S P–2447, 018, Consumers Power Company
P–2448, 025, Consumers Power Company
P–2449, 017, Consumers Power Company
P–2450, 016, Consumers Power Company
P–2453, 014, Consumers Power Company
P–2580, 029, Consumers Power Company
CAH–7.
Omitted
CAH–8.
Docket # P–8066, 027, American Hydro Power Company
CAH–9.
Docket # P–11459, 002, Washington County Water Conservancy District
CAH–10.
Docket # P–11313, 000, White Mountain Hydroelectric Company

Consent Agenda—Electric

CAE–1.
Docket # ER95–1561, 000, Montaup Electric Company
CAE–2.
Docket # ER95–1615, 000, Entergy Power Marketing Corporation
CAE–3.
Docket # ER95–1545, 000, Commonwealth Edison Company
Other #S ER93–777, 000, Commonwealth Edison Company
ER95–371, 000, Commonwealth Edison Company
ER95–1539, 000, Commonwealth Edison Company
CAE–4.
Docket # ER95–1596, 000, American Electric Power Service Corporation
CAE–5.
Docket# ER95–1489, 000, Southern California Edison Company
CAE–6.
Docket# ER95–1268, 000, Public Service Company of Colorado
CAE–7.
Docket# ER94–475, 000, Wisconsin Power and Light Company
Other#s ER94–108, 000, Heartland Energy Services, Inc.
CAE–8.
Docket# ER95–679, 001, Connecticut Valley Electric Company
Other#s ER95–680, 001, Central Vermont Public Service Corporation
CAE–9.
Omitted
CAE–10.
Docket# EL94–59, 001, Cities of Bedford, Danville, Martinsville & Town of Richlands, Virginia, et al., v. Appalachian Power Company
CAE–11.
Docket# TX93–2, 005, Cities of Bedford, Danville, Martinsville and Town of Richlands, Virginia and Blue Ridge Power Agency
CAE–12.
Docket# EG95–80, 000, Los Amigos Leasing Company Ltd.
CAE–13.
Docket# EG95–85, 000, Hudson Falls, LLC
CAE–14.
Docket# EG95–86, 000, Adirondack Operating Services, LLC
CAE–15.
Docket# EG95–81, 000, LG&E Power Operating Services Inc.
CAE–16.
Docket# EG95–87, 000, Energy Power Marketing Corporation
CAE–17.
Docket# EG95–79, 000, Brooklyn Navy Yard Cogeneration Partners, L.P.
CAE–18.
Docket# EG95–82, 000, Barranquilla Lease Holding, Inc.
CAE–19.
Docket# EG95–83, 000, EI Power, Inc.
CAE–20.
Omitted
CAE–21.
Docket# EL95–52, 000, Dartmouth Power Associates Limited Partnership v. Commonwealth Electric Company
Other#s EL95–66, 000, Commonwealth Electric Company v. Dartmouth Power Associates Limited Partnership and EMI/Dartmouh, Inc.
CAE–22.
Omitted
CAE–23.
Docket# EL95–36, 000, Jersey Central Power & Light Company

Consent Agenda—Gas and Oil

CAG–1.
Omitted
CAG–2.
Docket# RP95–438, 000, Florida Gas Transmission Company
CAG–3.
Docket# PR95–12, 000, Sonat Intrastate-Alabama Inc.
CAG–4.
Docket# PR95–13, 000, AOG Gas Transmission Company, L.P.
CAG–5.
Omitted
CAG–6.
Docket# RP94–301, 000, Stingray Pipeline Company
Other#s RP94–301 003, Stingray Pipeline Company
CAG–7.
Docket# RP94–375, 002, Texas Gas Transmission Corporation
Other#s RP95–215 et al., 001, Texas Gas Transmission Corporation
CAG–8.
Docket# RP95–103, 000, Florida Gas Transmission Company
Other#s RP95–103, 004, Florida Gas Transmission Company
CAG–9.
Docket# RP95–325, 000, El Paso Natural Gas Company
CAG–10.
Docket# RP88–44, 052, El Paso Natural Gas Company
CAG–11.
Docket# RP95–185, 006, Northern Natural Gas Company
CAG–12.
Docket# RP95–326, 003, Natural Gas Pipeline Company of America
Other#s RP95–242, 004, Natural Gas Pipeline Company of America
CAG–13.

Docket# RP95–408, 002, Columbia Gas Transmission Corporation
CAG–14.
Omitted
CAG–15.
Docket# RP94–227, 001, Transwestern Pipeline Company
Other#s RP94–227, 000, Transwestern Pipeline Company
CAG–16.
Omitted
CAG–17.
Docket# RP95–271, 002, Transwestern Pipeline Company
Other#s CP94–211, 003, Transwestern Pipeline Company
CP94–254, 002, Transwestern Pipeline Company
CP94–676, 001, Transwestern Pipeline Company
CP94–751, 003, Transwestern Pipeline Company
CP95–70, 003, Transwestern Pipeline Company
CP95–112, 002, Transwestern Gathering Company
CP95–153, 001, Transwestern Pipeline Company
CP95–378, 001, Transwestern Pipeline Company
RP93–34, 009, Transwestern Pipeline Company
RP94–227, 002, Transwestern Pipeline Company
CAG–18.
Omitted
CAG–19.
Docket# RP94–296, 006, Williams Natural Gas Company
Other#s RP94–296, 004, Williams Natural Gas Company
RP94–296, 005, Williams Natural Gas Company
CAG–20.
Docket# RP95–88, 003, Tennessee Gas Pipeline Company

Other#s RP95–112, 010, Tennessee Gas Pipeline Company
CAG–21.
Docket# RP95–420, 000, North Atlantic Utilities, Inc. v. Transcontinental Gas Pipe Line Corporation

Other#s TM95–12–29, 000, Transcontinental Gas Pipe Line Corporation
CAG–22.
Omitted
CAG–23. Docket# IS94–22, 000, Chevron Pipe Line Company

Other#s IS95–11, 000, Chevron Pipe Line Company
CAG–24.
Docket# OR95–33, 000, Yellowstone Pipe Line Company
CAG–25.
Docket# RP95–374, 000, Gas Research Institute
CAG–26.
Docket# CP94–172, 001, Mojave Pipeline Company
CAG–27.
Docket# CP94–575, 002, El Paso Natural Gas Company
CAG–28.
Omitted
CAG–29.
Docket# CP95–312, 000, Northern Natural Gas Company
CAG–30.
Docket# CP95–681, 000, Texas Eastern Transmission Corporation
CAG–31.
Docket# CP95–500, 000, Southern Natural Gas Company
CAG–32.
Docket# CP90–1849, 003, Washington Water Power Company

Other#s CP90–2158, 002, Northwest Pipeline Corporation
CAG–33.
Docket# CP95–177, 000, Burt McDaniel, M.D. v. East Tennessee Natural Gas Company
CAG–34.
Docket# CP95–349, 000, Louisiana Gas System Inc. and Conoco, Inc. v. Panhandle Eastern Corporation, Centana Energy Corporation, et al.
CAG–35.
Omitted
CAG–36.
Docket# CP88–760, 018, Transcontinental Gas Pipe Line Corporation

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Reserved

II. Pipeline Certificate Matters

PC–1.
Docket# RP95–212, 000, Kansok Partnership, Kansas Pipeline Partnership and Riverside Pipeline Company, L.P.

Other#s RP95–395, 000, Williams Natural Gas Company v. Kansas Pipeline Operating Company and Kansas Pipe Line Partnership, et al.
Order on show cause proceeding and on complaint.

Dated: October 4, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25228 Filed 10–5–95; 4:17 pm]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting Thursday, October 12, 1995

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, October 12, 1995, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Wireless Telecommunications—Title: Amendment of Parts 20, 22, 24 and 90 of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services. Summary: The Commission will consider proposing expansion of the scope of permissible communications for providers of Personal Communications Services and other specified CMRS services to include fixed services.

2—Wireless Telecommunications—Title: Plan for Sharing the Costs of Microwave Relocation (RM–8643). Summary: The Commission will consider action concerning the relocation of microwave facilities in the 1850 to 1990 (2 GHz) band, including cost sharing.

3—Common Carrier—Title: Motion of American Telephone and Telegraph Company to be Reclassified as a Non-Dominant Carrier. Summary: The Commission will consider AT&T's motion for reclassification as a non-dominant carrier under the Commission's rules.

Additional information concerning this meeting may be obtained from Audrey Spivack or Maureen Peratino, Office of Public Affairs, telephone number (202) 418–0500.

Dated October 5, 1995.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25331 Filed 10–6–95; 3:40 pm]

BILLING CODE 6712–01–F

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 9, 16, 23, and 30, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of October 9

Tuesday, October 10

10:00 a.m.
Briefing on NRC's Technical Training Program (Public Meeting)
(Contact: Ken Raglin, 615–855–6500)

Thursday, October 12

3:30 p.m.
Affirmation Session (Public Meeting)
a. Revisions to Regulatory Requirements for Reactor Pressure Vessel Integrity in 10 CFR Part 50
b. Georgia Institute of Technology—Appeal of LBP–95–6
(Contact: Andrew Bates, 301–415–1963)

Week of October 16—Tentative

There are no meetings scheduled for the Week of October 16.

Week of October 23—Tentative

There are no meetings scheduled for the Week of October 23.

Week of October 30—Tentative

There are no meetings scheduled for the Week of October 30.

Note: The Nuclear Regulatory Commission is operating under a delegation of authority to Chairman Shirley Ann Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: October 5, 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95–25248 Filed 10–6–95; 10:55 am]

BILLING CODE 7590–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, October 16, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 6, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–25332 Filed 10–6–95; 3:41 pm]

BILLING CODE 6210–01–M

Wednesday
October 11, 1995

Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Part 154, et al.

Natural Gas Companies (Natural Gas Act): Rate Schedule and Tariff Changes; Filing; Uniform Systems of Accounts, Forms, Statements, and Reporting Requirements; Revisions; Final Rules

FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 154

[Docket No. RM95–3–000; Order No. 582]

Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs

Issued: September 28, 1995

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending part 154 of the Commission's regulations under the Natural Gas Act. The Commission is reorganizing, rewriting and updating its regulations governing the form, composition and filing of rates and charges for the transportation of natural gas in interstate commerce. This rule is part of the Commission's ongoing program to review its filing and reporting requirements and reduce unnecessary burdens by eliminating the collection of data that are not necessary to the performance of the Commission's regulatory responsibilities. The rule also requires that certain data, necessary to the analysis of a proposed rate, be filed at an earlier stage of the process.

EFFECTIVE DATE: This final rule is effective November 13, 1995.

FOR FURTHER INFORMATION CONTACT: Richard A. White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–0491.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours at 888 First Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (800) 856–3920. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, 1200, or 300 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS in ASCII and WordPerfect 5.1 format. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street NE., Washington, DC 20426.

Table of Contents

I. Introduction

The Federal Energy Regulatory Commission (Commission) hereby adopts procedural rules governing the form and composition of interstate natural gas pipeline tariffs and the filing of rates and charges for the transportation of natural gas in interstate commerce under sections 4 and 5 of the Natural Gas Act (NGA) and section 311 of the Natural Gas Policy Act. This rule is a companion to the final rule, issued concurrently, titled ''Revisions to the Uniform System of Accounts and to Forms and Statements and Reporting Requirements for Natural Gas Companies'' which amends, among other things, the Uniform System of Accounts and FERC Form No. 2.

The Commission intends to make the filing and reporting requirements reflect recent regulatory changes, in particular the implementation of Order No. 636, and the realities of the process of a modern rate case.[1] The restructuring of the pipeline industry has rendered many of the current rate and tariff regulations superfluous or outdated. The Commission is adopting filing requirements that reflect the current part 284 service regulations that mandate unbundled pipeline sales and open-access transportation of natural gas. The current part 154 rate regulations are not designed for the type of rate changes that will occur in the restructured service environment. These filing requirements were originally designed to focus on pipeline sales activities. The revised regulations focus on transportation services.

Before the recent industry restructuring, natural gas pipelines primarily provided a merchant service. A typical pipeline company would purchase gas from producers or other suppliers, transport the gas from the supply area to storage fields or sales delivery points, and sell the gas on a bundled basis. Now, pipeline companies are primarily transporters of natural gas. This change in the primary role of the pipeline from merchant to transporter requires that the filing requirements be adapted to the change. Accordingly, the Commission is deleting all of the current regulations in part 154 and replacing them with new regulations that reflect the restructured industry.

Kern River requests clarification that the companion rules are pursuant to section 5 of the NGA. The clarification is denied. Section 5 specifically gives the Commission the power to change any rule, regulation, practice or contract that the Commission finds to be unjust, unreasonable, unduly discriminatory or preferential. The Commission's power to prescribe rules, regulations and statements of policy of general applicability with respect to any function under its jurisdiction is derived from section 402 of the Department of Energy Organization Act and section 16 of the NGA. The instant rule is more appropriately considered to be promulgated pursuant to the latter authorities.

The changes to the Commission's regulations are effective November 13, 1995.

II. Public Reporting Burden

The subject final rule will effect seven of the Commission's existing data collections. However, only one of these data collections will have a net change (reduction) in reporting burden. The final rule reflects many of the changes suggested in industry comments filed in response to Commission's Notice of Proposed Rulemaking. In particular, the joint comments of The Interstate Natural Gas Association of America (INGAA) and the American Gas Distributors (AGD) were helpful.

The final rule is expected to reduce the existing reporting burden associated with FERC–545, Gas Pipeline Rates: Rate Change (Non-Formal) (OMB Control No. 1902–0154) (FERC–545) by an estimated 136,785 hours annually—an average of 172.9 hours per response. As a result of the final rule, the annual reporting requirement under FERC–545 is estimated to total 36,068 hours based on an expected 650 filings per year. A copy of this rule is being provided to Office of Management and Budget (OMB).

The Commission estimates the public reporting burden for data collected under FERC–545 will average approximately 55.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Six other existing data collections are affected by the changes in regulations.[2] However, no net change in the reporting burden of those affected data collections is expected because of off-setting increases and decreases within each respective data collection. FERC–545 is the only data collection under which a net change (reduction) in reporting burden is expected as a result of the changes in filing requirements adopted by the Commission in the subject final rule.

Interested persons may send comments regarding these burden estimates or any other aspect of these

[1] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, 57 FR 13267 (April 16, 1992), *FERC Statutes and Regulations* ¶ 30,939 (April 8, 1992); *order on reh'g*, Order No. 636–A, 57 FR 36128 (August 12, 1992), *FERC Statutes and Regulations* ¶ 30,950 (August 3, 1992); *order on reh'g*, Order No. 636–B, 57 FR 57911 (December 8, 1992), 61 FERC ¶ 61,272 (1992), *reh'g denied*, 62 FERC ¶ 61,007 (1993), *appeal pending sub nom. United Distribution Co., et al.* v. *FERC*, No. 92–1485, *et al.* (D.C. Cir. Feb. 8, 1995).

[2] Five existing data collections affected by the subject final rule but with no net change in industry reporting burden, are:

FERC–542, Rate Change and Tracking (1902–0070);

FERC–543, Rate Tracking (Formal) (1902–0152);

FERC–544, Gas Pipeline Rates: Rate Change (Formal) (1902–0153);

FERC–546, Certificated Rate Filings: Gas Pipeline Rates (1902–0155); and

FERC–547, Refund Report Requirements (1902–0084).

Under the above data collections plus FERC–545, net reductions in reporting burden have totaled more than 355,000 hours to date as a result of Order No. 636. Such reductions have been reflected in separate clearance packages previously reported to the Office of Management and Budget (OMB).

A sixth existing data collection, FERC–542(A), Tracking and Recovery of Alaska Natural Gas Transportation System (ANGTS) Charge (1902–0129), which has conditional OMB approval on a ''standby'' basis, is terminated under the final rule.

collections of information, including suggestions for further reductions of burden, to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 (Attention: Michael Miller, Information Services Division, (202) 208–1415, FAX: (202) 208–2425). Comments on the requirements of this final rule may also be sent to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503 (Attention: Desk Officer for Federal Energy Regulatory Commission, (202) 395–6880, FAX: (202) 395–5167).

III. Background

On December 16, 1994, the Commission issued a Notice of Proposed Rulemaking proposing a major overhaul of its regulations governing natural gas company filing and reporting requirements.[3] The Commission is determined to issue sensible regulations that impose the least burden without sacrificing rational and necessary protections.[4] The Commission is not changing its substantive rate policies in this rulemaking, but rather bringing its filing requirements and procedures up to date to match its current substantive policies. In the interest of an expeditious process, the regulations have been revised with a view toward removing any industry-wide filing burdens that are not generally needed to analyze a proposal. The revised regulations are designed to provide the Commission and interested parties with the information generally required to access and process a rate filing. Where more information is needed, it may be collected on an individual case basis. This achieves a realistic balance between the public interest and the needs of the industry.

The Commission received many comments on the NOPR.[5] Additionally, on August 17, 1995, AGD and INGAA filed joint comments to both this and the companion rule (Agreement).[6] The Commission found the Agreement both informative and helpful as it clearly sets out the positions and interests of a fairly large representative group of pipelines and customers.

The Final Rule reflects many of the proposals in the Agreement. The suggestions concerning the restructuring of Statement G, the concurrent filing of Statement P, and the reduction in material required to support a filing, are reflected in the Final Rule, as more fully explained in the discussion of Statement G, supra. However, the Final Rule does not, automatically, accord confidential treatment to Statement G, as proposed in the Agreement, which is also discussed supra.

The NOPR proposed to delete many filing requirements. After analyzing the comments in light of its current goals, the Commission has determined to delete even more of the current filing requirements, not include many proposed filing requirements, and further modify many other current and proposed regulations. Specific reductions in reporting requirements follow:

All the filing requirements of current §§ 154.201–213 have been deleted. Those regulations apply to shippers seeking to recover charges incurred for the conditioning and transportation of Alaska natural gas through the Alaska Natural Gas Transportation System (ANGTS) for sale in the contiguous 48 states of the United States.

Current § 154.38(e), requiring that the minimum bill heading appear on every schedule is deleted.

Current § 154.67(b), requiring annual reports, is deleted.

Current Schedule E–5, showing the computations, cross-references and sources from which the data used in computing claimed working capital are derived, is deleted.

Current Schedule H(1)–2, cost of purchased gas, is deleted.

Current Schedule H(3)–1, reporting the reconciliation of book and taxable net income for a pipeline, is deleted.

Current Schedule H(3)–2, reporting the differences between book and tax depreciation on a straight-line basis and the excess of liberalized depreciation for tax purposes, is deleted.

Current Schedule I–5, requiring information on metering points and units, is deleted.

Current Schedule I–6, Three-day peak deliveries, is deleted.

Current § 154.42, dealing with the price of gas, is deleted.

Proposed § 154.309 has been modified by removing the requirement to report ''every major expansion since the pipeline's last rate case.''

Proposed Schedule C–2, Plant in Service as Adjusted, showing the proposed test period Adjusted Plant by function, has not been included in the final rule.

Proposed Schedule D–2, Projected End of Test Period Depreciation Reserves Functionalized, showing the ending test period balance of accumulated depreciation reserve, has not been included in the final rule.

Proposed Schedule E–3, which was to be filed by companies with PGA clauses, has not been included in the final rule.

Proposed Schedule H–1(1) has been modified by removing the requirement to report the rate assigned for reflecting an expense for gas used on the system. Only the volumes will be required.

Proposed Schedule H–1(2)(a), which was to be filed by companies with PGA clauses, has not been included in the final rule.

Proposed Schedule H–1(2)(b), which was to be filed by companies with PGA clauses, has not been included in the final rule.

Proposed Schedule H–1(3)(b), Account 813, Other Gas Supply Expenses, has not been included in the final rule.

Proposed Schedule H(2)–1 requiring the reporting of the reconciliation of depreciable plant to gas plant was incorporated into Schedule H(2).

Proposed § 154.314 provided that in addition to the workpapers accompanying the filing, certain material, related to the test period, must be provided to the Commission on request. This requirement has been removed from the final rule. Parties to a hearing may seek this information through the discovery process.

IV. Discussion

A. Overview and Objectives of the Final Rule

Section 4(a) of the Natural Gas Act (NGA) requires that any rate charged by a natural gas company must be ''just and reasonable.'' [7] In order to aid the Commission in establishing whether a change in a rate meets the statutory standard, section 4 of the NGA grants authority to the Commission to establish procedures for the review of proposed changes. Section 4(c) of the NGA requires that a natural gas company file proposed changes in rates with the Commission thirty days prior to the proposed effective date.[8] The Commission may suspend the effectiveness of the proposed changes to

[3] Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs, 60 FR 3111 (January 13, 1995), IV FERC Stats. & Regs. ¶ 32,511 (1995).

[4] This effort is consistent with the President's directives in his memo dated 3/4/95 concerning the National Performance Review to, among other things, eliminate or revise outdated regulations, and to move from a process that creates volumes of regulations to issuing ''sensible regulations that impose the least burden without sacrificing rational and necessary protections.''

[5] See Appendix B for a list of commenters.

[6] Agreement Between Associated Gas Distributors (AGD) and The Interstate Natural Gas Association of America (INGAA) on Issues Related to Filing Requirements, filed August 17, 1995. The agreement was in addition to the individual comments provided by AGD, INGAA, and their members. It was an attempt to resolve various differences and reflected compromises in the positions of AGD and INGAA.

[7] 15 U.S.C. 717c(a).

[8] 15 U.S.C. 717c(d).

that rate for up to five months, permit the changed rates to take effect subject to refund, and may order a hearing to determine the lawfulness of the proposed rates.[9] At such hearing, the company bears the burden of proof that the proposed changed rates are just and reasonable. Part 154 imposes specific filing and reporting requirements on jurisdictional natural gas companies in order for the Commission to fulfill its statutory review functions.

This proceeding represents a major overhaul of the regulations governing natural gas company filing and reporting requirements. The new part 154 incorporates both basic ''housekeeping'' changes to eliminate obsolete language and sections, and substantive changes to update the regulations to reflect the many developments that have taken place in the natural gas industry since the regulations were first promulgated.

The revised part 154 represents the reorganization, rewriting, updating, modification, consolidation, and pruning of the current regulations. The changes provide for more useful and less burdensome data filed in electronic format; a schedule by schedule revision of the current § 154.63 filing requirements for an NGA section 4(e) general rate case; and, new filing requirements for initial rates and various limited section 4 filings, miscellaneous tariff change filings, and cost tracking filings.

1. Organization and Editorial Changes

Part 154—Rate Schedules and Tariffs has been reorganized into subparts: Subpart A—General Provisions and Conditions; Subpart B—Form and Composition of Tariff; Subpart C—Procedures for Changing Tariffs; Subpart D—Material to be Filed With Changes; Subpart E—Limited Rate Changes; Subpart F—Refunds and Reports; Subpart G—Other Tariff Changes.

The revised part 154 is organized in such a way that the filing requirements are cumulative. That is, all filings must meet the requirements of subpart A even if no other subpart applies. All tariff sheets or executed service agreements must conform to the requirements of subpart B. Changes to tariff sheets or executed service agreements, whether additions or modifications, must conform to the requirements of subpart B and comply with the filing requirements of subpart C. Additional filing or reporting requirements applicable to specific types of filings fall under subparts D through G.

[9] 15 U.S.C. 717c(e).

The entire part 154 has been edited for clarity and to remove outdated references. For example, all references to filing fees have been removed because fees are no longer required for interstate pipelines. Also, the current regulations contain some sections which have never been updated and refer to the Commission as the ''FPC'' or direct the applicant to comply with sections that have been removed. The Commission has made appropriate editorial revisions to these sections.

Some current sections contain provisions on several different matters and, for the sake of clarity, have been broken out into several smaller sections. For example, the provisions of current § 154.63 are redistributed throughout the revised part 154. Current § 154.38(d)(5) and (6) deal with the substantive rules for obtaining rate treatment for research, development, and demonstration costs (RD&D) and annual charge adjustment (ACA) expenditures, respectively. These sections are moved to a separate subpart and revised.

Many provisions are redrafted to reflect the prevalent practice in the industry. For example, revised § 154.208 formally adds to the regulations the requirement that the company must serve notice upon its customers. Revised § 154.209 sets out a new form of notice to reflect current practice. Revised § 154.107 formalizes the general practice of providing a detailed statement of rates and charges in a particular location in the tariff. Revised § 154.2(d) allows mailing to customers and state commissions to be accomplished either through electronic media or traditional methods.

2. Substantive Changes

The changes create filing requirements that reflect the current policies and regulations that mandate unbundled pipeline sales and open-access transportation of natural gas. The primary objectives of the substantive changes are to update the filing and reporting requirements to reflect restructured services and operations, streamline rate case processing by receiving important information earlier in the process, and remove outdated requirements.

The revised filing requirements permit parties to address the important issues more quickly. For example, pipelines currently file their Statement P testimony 15 days after filing the rate proposal. The Commission's experience is that Statement P provides the most comprehensive description of the proposed change. The rule requires Statement P to be filed concurrently with the rate case so as to make a more complete explanation of the rate proposal available at the outset. To achieve its intended purpose of expediting the hearing, Statement P must serve as the applicant's complete case-in-chief, not a mere description of proposed rates.

INGAA, Panhandle, ANR/CIG, KNI, MRT, and Great Lakes state that the proposed regulations would increase the burden to the pipeline industry. Panhandle attached a study showing that the number of hours needed to prepare a section 4 filing would increase by 77% and the paperwork would triple. Panhandle states that the study reflects estimates of time required to prepare a rate filing, responses to staff data requests and, the proposed quarterly updates. Panhandle states that the quarterly updates account for a substantial portion of the increased burden and that 88 percent of the increased burden could be eliminated if pipelines were permitted to submit supplemental testimony as the need arises (i.e., Statement P does not represent the ''sole'' case-in-chief).

As discussed supra, the proposed quarterly update provision has not been included in the final rule. Proposed § 154.311 has been modified to only require one update; and so, that portion of the increased burden has been substantially reduced. Statement G and associated schedule requirements have not been expanded as proposed. Revised Statement G does not require the customer specific information as proposed in the NOPR; and so, that portion of the increased burden has also been eliminated.

It was unclear from the material provided by Panhandle whether the study considered that filing Statement P with the initial filing is an increase to the filing burden. The Commission remains firm in the belief that the requirement for a fuller, complete Statement P presented at the beginning of a rate case reduces the overall burden to the parties to the hearing. The Commission does not expect that this requirement will entirely remove the need for data requests and discovery in all instances. However, it is the pipelines' statutory burden to demonstrate that proposed rates are just and reasonable. When the rates cannot be determined to be just and reasonable by the filed material alone, a hearing must be established. This rule represents a concerted effort to avoid lengthy hearings. One way to expedite the process is to get the information needed to make the determination (Statement P) to the Commission and other parties sooner than under the current regulations. This does not

increase the burden to the pipeline but changes only the timing of the submission.

Certain regulations are, as a practical matter, no longer of general interest. The Commission has removed them from the general regulations. The regulations concerning Research, Development, and Demonstration expenses (RD&D) for example, are currently a lengthy and cumbersome part of § 154.38. These regulations were originally developed to apply to all pipelines and to any number of RD&D organizations. However, in practice, there is one predominant and principal research organization, Gas Research Institute (GRI). Thus, the Commission has streamlined the regulations, recognizing that GRI is the principal research organization funded by the natural gas industry.

The Commission has removed the regulations governing Purchase Gas Adjustments (PGAs) from the general regulations. As a result of the restructuring of the industry under Order No. 636, most pipelines have shed their traditional merchant function. At the time this rule is being written, only two natural-gas companies, Eastern Shore Natural Gas Company and West Texas Gas, Inc., continue to pass through gas purchase costs under the PGA regulations.[10] The Commission will now require these natural-gas companies to incorporate all of the existing PGA regulatory requirements applicable to it into their tariffs if they are not open-access by the effective date of this rule.[11] The PGA regulations are removed from part 154. The Commission also requires the provisions governing PGAs in current § 154.111 to be incorporated into these companies' tariffs and that section is also removed.

The Commission has deleted current §§ 154.201–213. Those regulations apply primarily to shippers seeking to recover charges incurred for the conditioning and transportation of Alaska natural gas through the Alaska Natural Gas System (ANGTS) for sale in the contiguous 48 states of the United States. Those provisions establish the terms and conditions for a permanent tariff provision that a shipper may propose to adjust its rates semiannually to flow through to its jurisdictional customers the jurisdictional portion of changes its ANGTS charges. Alternatively, a shipper may recover the jurisdictional portion of these charges through a cost-of-service tariff approved by the Commission.

The Commission has deleted these regulations because the ANGTS project has not been built as originally contemplated, and the regulations are obsolete in light of the post-Order No. 636 unbundled environment. Nonetheless, the Commission remains ready to facilitate the construction of ANGTS, which Congress has found to be in the public interest.[12] Hence, if action is warranted in the future to facilitate financing and progress on the ANGTS and the recovery of ANGTS costs, the Commission will act expeditiously. What was stated in Order No. 636–A applies here as well: ''nothing in the rule (Order No. 636) is intended to disturb the United States government's commitment to the ANGTS prebuild.'' [13] Further, the Commission continues to view the Northern Border Pipeline Company prebuild segment as remaining subject to the various agreements between the United States and Canadian governments and subsequent findings in Commission orders certificating Northern Border's system.[14] Removing these regulations is not intended to have any effect on the ANGTS prebuild revenue stream.

B. The Revised Regulations

The revised part 154 has a completely new organization from the current regulations, and virtually every section has been changed in some way. The text has been edited to remove outdated and incorrect references, and rewritten in a more concise style. Although many filing and reporting requirements have not been changed, they have been relocated. The revised regulations may be best understood by a comparison to the current regulations they replace.[15] Details of the revised regulations are provided below along with a discussion of the comments.

1. Subpart A—General Provisions and Conditions

a. *Section 154.1 Application; obligation to file.* The Commission has included as § 154.1(b) the description of the purpose of part 154, which is currently set forth in § 154.1(a). That purpose reflects the requirement of Section 4(c) of the NGA that every natural gas company must file with the Commission, and maintain open for public inspection, its schedules and contracts.[16]

The Commission has deleted outdated language (i.e., ''On or after December 1, 1948''). The Commission is removing the electronic medium requirements from current §§ 154.1 (b) and(c) and placing them in new § 154.4.

Section 154.1(c) replaces without change current § 154.22, which states that no natural gas company may file a new or changed rate schedule or contract for service for which a certificate of public convenience and necessity or certificate amendment must be obtained pursuant to section 7(c) of the Natural Gas Act, until such certificate has been issued.

Williston states that § 154.1(c) only prolongs the approval process and delays implementation of services. Williston suggests allowing a new or changed rate to be filed concurrently with the certificate filing.

This section imposes no additional requirements from current § 154.22. However, the Commission clarifies that, although a pipeline may not file to incorporate a rate schedule in its tariff for which section 7(c) authorization is required but for which section 7(c) authorization has not yet been granted, it does not prohibit a pipeline from proposing an initial rate in its certificate application under section 7(c). Since the Commission has adopted the practice of granting blanket certificates for services, this provision will be applied most often to new companies which have not previously been subject to the Commission's jurisdiction and do not have a tariff on file.

New § 154.1(d) requires that any executed service agreement which deviates in a material aspect from the form of service agreement in a pipeline's tariff must be filed with the Commission. This requirement codifies current Commission policy.[17]

INGAA proposes various alternatives that limit the extent to which information on contractual terms and conditions will be available to the public.

Midcon urges the Commission to delete the requirements to file commercially sensitive information. Midcon also suggests that the proposal be deleted or clarified to state that

[10] These pipelines do not provide open access transportation under part 284 of this chapter; and so, were not subject to restructuring under Order No. 636.

[11] Eastern Shore is required by a settlement to apply to become an open-access pipeline no later than January 1, 1996. 72 FERC ¶ 61,176 (1995).

[12] Alaska Natural Gas Transportation System Act, 15 U.S.C. § 719–719.

[13] Order No. 636–A, III FERC Stats. & Regs. Preambles ¶ 30,950 at p. 30,674 (1992).

[14] Northern Border Pipeline Co., 63 FERC ¶ 61,289 (1993).

[15] Appendix A is a finding guide between current and revised regulations.

[16] 15 U.S.C. 717c(c).

[17] See, Tennessee Gas Pipeline Company, et al., 65 FERC ¶ 61,356 (1993); *reh'g denied,* 67 FERC ¶ 61,196 (1994). INGAA, CNG, Midcon, NGSA, and Columbia believe that § 154.1(d) requires public disclosure of contract provisions and may negatively affect private contracts.

discount agreements do not ''deviate in any material aspect.'' Further, Midcon suggests, any such contracts must be exempt from the FOIA.[18]

Pacific Northwest Commenters urge the Commission to be more specific as to what deviations or substantive additional provisions will trigger this filing requirement. Columbia objects to § 154.1(d) as too broad and requests that the Commission clarify that specifically drafted provisions addressing flow rates, pressure obligations, maximum delivery obligations, term, and other ''tariff-contemplated'' items are not ''material'' deviations.

IPAA and NI-Gas support the requirement. IPAA states that the legal concept of materiality may depend upon ''where one resides in the food chain'' and suggests that all deviating agreements be filed.

The use of forms of service agreements as the basis of contracts between a pipeline and its customers ensures that there are no unreasonable differences among the rates, charges, services, facilities, or otherwise of the pipeline's customers. Having made the determination that the form of service agreement in the tariff is just and reasonable, the Commission does not necessarily have to review every contract to determine if it complies with the requirements of the NGA. Thus, a contract that conforms to a pro forma service agreement need not be filed with the Commission because the Commission has already considered and determined that the pro forma service agreement is just and reasonable. Likewise, any contract that deviates in a material way from a pro forma service agreement must be evaluated anew to determine that it is not unjust, unreasonable, preferential, or otherwise unacceptable. The Commission does allow parties to negotiate additional mutually agreeable terms and conditions in their service agreements, but where the terms differ materially from those in the form of service agreement, the pipeline must seek authorization for these modifications from the Commission under section 4 of the NGA. [19]

The Commission agrees that ''materiality'' is likely to vary with the circumstances of the case. Therefore, it is better to allow the term to remain less strictly defined in order that the particular facts of a given contract will determine whether the deviation is material and needs to be filed. The Commission also agrees that provisions such as those addressing flow rates, pressure obligations, maximum delivery obligations, receipt and delivery points, and term would not normally be expected to be ''material'' deviations. Such provisions could easily be drafted into the fixed language of the pro forma service agreements or a blank space could be provided for insertion according to the agreement of the parties. Likewise, rates that fall between the maximum and minimum rates permitted for the rate schedule would not be considered to be material. In either case, there would be no deviation from the Commission approved pro forma service agreements contract.

b. *Section 154.2 Definitions.* The Commission defines terms of general applicability in § 154.2. The Commission is proposing stylistic changes only to definitions for: ''Rate Schedule,'' currently in § 154.11, ''Contract,'' currently in § 154.12, ''Service Agreement,'' currently in § 154.13, and ''Tariff or FERC Gas Tariff,'' currently in § 154.14. ''Posting,'' currently in § 154.16, has been defined to allow the parties to agree to alternative methods of ''mailing'' such as electronic mail.

Williston states that the definition of ''rate schedule'' in § 154.2(e) is unclear as to whether a ''sale of natural gas'' pertains to the price charged for gas sold by a pipeline's sales division. Williston states that such information is proprietary and should not be included in the rate schedule.

The definition of ''rate schedule'' is substantially the same as in the current regulation and tracks the language of the NGA. [20] Williston has not persuaded us to change the definition.

c. *Section 154.3 Effective Tariff.* The Commission describes the term ''Effective tariff'' in § 154.3, currently § 154.21. The description clarifies that a pipeline may not avoid filing for a rate change by making the rate subject to an exception or condition, such as a periodic rate change under a price index. At present this concept is found in § 154.38(d)(3).

AGD requests clarification that § 154.3(b) is not intended to cause incentive rates to be rejected. SoCal urges the Commission not to prohibit index adjustments submitted as part of a settlement or where supported by the facts.

The regulation does not prohibit index adjustments or incentive rates when authorized by the Commission. The regulation only prevents a change from occurring automatically, without Commission authorization. The regulation is consistent with the statutory obligation of the Commission to review all proposed rate changes for adherence to the just and reasonable standard.

d. *Section 154.4 Electronic and Paper Media.* Current § 154.26 generally calls for 6 paper copies and requires rate filings to be submitted electronically. New § 154.4 continues to require electronic media filings in addition to paper copies. Generally, it calls for an original and 5 paper copies but requires an original and 12 paper copies of filings made pursuant to subpart D.

The new section consolidates in one place the Commission's requirements with respect to electronic submittal of filings required by part 154. Currently, these requirements are strewn throughout part 154, often redundantly.

The appendix to the NOPR included updated electronic tariff filing formats as well as tariff pagination guidelines. [21] The revised formats take into consideration improvements in the FASTR software which reads the tariff ASCII files submitted by the companies to the Commission. [22] The NOPR proposed that all companies that had not restated their tariffs, do so, electronically on or before June 1, 1995. That date has passed. Therefore, all companies that have not restated their tariffs must do so, electronically on or before January 26, 1996.

Columbia seeks clarification as to whether the requirement under § 154.4(a) that 6 (the NOPR had proposed 6 paper copies) paper copies be filed, applies to the quarterly updates under proposed § 154.311. The quarterly update requirement has not been included in the final rule as originally proposed; however, the paper copy requirement applies to any updates which are required.

El Paso does not support the increase in the number of paper copies to be filed. As discussed infra, the Commission is suspending electronic filing of proposed changes in rates. Until electronic filing is reinstated, the Commission will continue to require 12 paper copies of rate case data. At the time electronic filing is reinstated, the Commission will make any appropriate adjustment to the paper copy requirements.

INGAA states that electronic filing should be the rule; in order to receive

[18] See the discussion on confidentiality, *infra.*

[19] *Id. See also,* Mojave Pipeline Company, 57 FERC ¶61,300 (1991).

[20] 18 U.S.C. 717c(c).

[21] The formats for the electronic filing and paper copy can be obtained at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, Washington, D.C. 20426.

[22] On February 28, 1990, the Commission issued the ''Notice of Tariff Retrieval System Software Availability,'' otherwise referred to as the FASTR software package.

documents in another medium, the customer should have to demonstrate its lack of ability to retrieve information electronically. ANR/CIG suggests that the option should be the pipeline's where the customer is able to receive information electronically. El Paso suggests the filing of documents by electronic means such as telecommunications or upload to the OPR Bulletin Board.

El Paso and Columbia support electronic service of filings upon parties rather than service on paper. According to Columbia, parties should be required to demonstrate their inability to receive electronic service. Service could be accomplished through a central electronic library of filings, from which copies could be made, or through electronic transmission through the EBB or other communication links. El Paso suggests the **Federal Register** notice be the only paper document served on customers. The remaining portions of a filing should be placed on the pipeline's EBB with the ability to view and download. This enhancement to the EBB would promote timely access to relevant information.

The Commission will not require customers to accept only electronic versions of a pipeline's filings at this time. The new electronic filing requirements are not yet finalized. No testing has been done. It will take some time before anyone can be comfortable with solely electronic filing. Therefore, until all of the issues related to electronic only filing can be resolved, parties must continue to receive paper copies of the filing. As the industry gains more experience with electronic filings, parties may elect to receive only an electronic version of the filing. The decision to send or receive an electronic filing should be arrived at by mutual consent of the pipeline and the interested party as noted in § 154.2(d).

e. *Section 154.5 Rejection of Filings.* Section 154.5 states that filings, that would prejudice the Commission in the discharge of its duty to decide whether or not to investigate and suspend the increased rates contained in the filing, will be rejected by the Director of the Office of Pipeline Regulation. This section merely recognizes, in these rate and tariff filing requirements, the existing power of the Director of the Office of Pipeline Regulation to reject tariff or rate schedule filings pursuant to the authority delegated to the Director by the Commission in § 375.307(b)(2) of the Commission's regulations.

Proposed § 154.5 replaced current § 154.15 with a definition of filing date based on § 35.2(c) of the Commission's regulations for public utilities under the Federal Power Act. The rule, as proposed, would allow the Director of the Office of Pipeline Regulation to notify a natural gas company that its filing is rejected within 15 days of receipt of the document. Under this proposal, the date of receipt stamped by the Secretary would not necessarily be the officially recognized filing date.

This proposed regulation was met with approval by some commenters such as APGA, Brooklyn Union, and AGD. However, others such as Columbia and El Paso object to the proposal that the stamped date is not necessarily the filing date. INGAA seeks clarification that the date the pipeline submits its filing to the Secretary is the filing date for determining compliance. INGAA and ANR/CIG state that the Commission already has the authority to reject rate filings if deemed incomplete; so, the proposal should be rejected because it may only create confusion as to the official filing date.

Columbia argues that 15 days is more time than necessary and creates uncertainty in trying to project and place rates into effect as of a date certain. Panhandle states that the status of interventions and protests would be unclear during the 15 days. Northwest/Williams states that 7 days is sufficient for the Director's notice. Northwest/Williams suggests that ''procedural'' revisions should be allowed within 2 days without effecting the filing date.

Pacific Northwest Commenters recommends that the Commission issue a notice that a filing is deemed incomplete, suspend any applicable dates triggered by the original filing, and allow an additional 8 business days for further protests or comments.

Columbia proposes that a modification permit pipelines to supplement deficient filings rather than being rejected where the deficiency is not substantive.

Arizona Directs sees conflict between this regulation and § 154.209. Arizona Directs states that there is no proposed requirement that a filing be deemed complete before the NGA section 4(d) 30-day notice period begins. Arizona Directs states that it would be burdensome for customers to review, intervene, and comment upon a filing deemed incomplete. Arizona Directs suggests that a new comment period be established with respect to the entire complete application, not just the corrected portion. Further, public notice should be given whenever a filing is deemed incomplete, and a second notice issued designating the date the filing is deemed complete and filed and establishing a new intervention, protest, and comment deadline. Arizona Directs suggest that the rule provide that a section 4 rate filing is not accepted for filing within the meaning of section 4(d) until after the end of a 15-day public review period and a staff finding that the filing is complete. Then, a notice could issue establishing the 10-day comment period.

NGSA suggests retaining the current provision or modifying the proposal to start a 15-day comment clock after the Director's review period.

Panhandle states that the determination by the Director that a filing is incomplete is tantamount to a rejection or a summary judgment. Panhandle states that filings should not be rejected if they are in substantial compliance with the regulations. Panhandle states that the proposal allows the Director to decide rate cases on isolated components without further proceedings.

Consumers Power does not object to the Director making the determination of incompleteness but believes the Commission should provide specific guidance as to conditions for rejection.

INGAA states that the Director's discretion should be limited so that rejection does not take place where: in a section 4 case, a good faith effort was made to include all of the required statements and schedules; information has not been provided for which a legitimate or routine waiver has been sought; information is provided under seal with a request for confidential treatment.

Panhandle suggests modifying the regulation to read that the ''Secretary'' shall reject any material ''which patently fails to substantially comply with the applicable requirements.''

INGAA states that the proposed regulation would create practical problems. If the Commission rejects a filing and establishes another filing date, the pipeline could be in violation of the requirement that the data be based upon a period ending not more than 4 months prior to the filing date. A delay in the start of the 30-day notice period could leave the pipeline without authorization to provide services set to coincide with the expiration of old contracts.

Although several commenters supported proposed § 154.5, most commenters either opposed the regulation or requested substantial modifications to the proposed section. Because of the confusion and uncertainty that may be created by the proposed regulation and the numerous procedural problems raised by the commenters, the Commission is not adopting § 154.5 as proposed. New § 154.5 is an indication of the

Commission's intent to have the Director reject filings that do not comply with the filing requirements promulgated by this order.

Finally, because the Commission is not adopting proposed § 154.5, the definition of filing date contained in current § 154.15 is retained in new § 154.2(f).

f. *Section 154.6 Acceptance for filing not approval.* New § 154.6 replaces current §§ 154.23 and 24. The rejection language of § 154.24 is amended and the reference to fees is deleted.

g. *Section 154.7 General Requirements for the Submission of a Tariff Filing or Executed Service Agreement.* Section 154.7 is a new section setting forth the content of a tariff filing or executed service agreement. In part, new § 154.7 reflects the requirements of current § 154.63(b)(1). New § 154.7 concerns all filings of tariff sheets and executed service agreements. In light of the short time period in which the Commission and interested parties have to review the filing, several items have been added to speed processing of the filing and minimize additional requests for information. These include an expanded definition of the reference to the authority under which the filing is made, addition of the name and telephone number of an official able to respond to questions regarding the filing, and clarification of the contents of the statement of the nature, reasons, and basis for the filing.

Section 154.7(a)(9) requires that the transmittal letter contain either a motion, in case of minimal suspension, to place the proposed rates into effect at the end of the suspension period; or, a specific statement that the pipeline reserves its right to file a later motion to place the proposed rates into effect at the end of the suspension period.

APGA supports the requirement to provide a detailed statement of the nature, reasons, and basis for any rate filing.

Columbia suggested that the proposed § 154.7(b) be modified to refer to the posting requirements of § 154.2(d) as sufficient service. Columbia also states that filings should be provided only to firm customers, not ''affected'' customers. Although these suggestions have not been adopted, the service requirements have been further refined and reduced as discussed supra.

NI-Gas suggests that § 154.7(a)(2) be modified to require that the transmittal letter include an address suitable for overnight delivery as opposed to a PO Box and a facsimile (FAX) number. The Commission has required a telephone number in the transmittal letter to provide for those situations where an intervenor needs clarification or detects a problem with a filing that could best be resolved by a phone call. The address is required by § 154.102 to be on the title page of the tariff. There is no need for it to also be in the transmittal letter.

Northwest/Williams requests clarification whether the letter of transmittal and certificate of service are to be submitted on electronic media. These items are not required to be submitted on electronic media. Section 154.4(a) lists those filings that must be filed electronically. As discussed in the section on electronic filing, the Commission does not intend to require that all filings be made electronically.

h. *Section 154.8 Informal Submission for Staff Suggestions.* Section 154.8 replaces current § 154.25.

2. Subpart B—Form and Composition of Tariff

a. *Section 154.101 Form.* Section 154.101 replaces current § 154.32. The Commission is proposing to eliminate the requirement that electronic media record format duplicate the page size, borders, and margins of the paper copy. The electronic filing requirements are in new § 154.4. In addition, the Commission has eliminated the requirement of a binder.

b. *Section 154.102 Title Page and Arrangement.* Section 154.102 replaces current § 154.33. The Commission has eliminated the reference to § 154.52, as special exceptions are covered by new § 154.112. The Commission has also eliminated the requirement of a binder. The Commission now requires that the numbering of sheets be as provided in the Tariff Sheet Pagination Guidelines.[23]

Currently, compliance with these guidelines is optional although the Commission has required use of the pagination guidelines in individual cases. Many companies have already voluntarily adopted the Commission's guidelines. The Commission now makes these guidelines mandatory. The guidelines provide the only means to ensure that tariff sheets are in the proper order in the Commission's electronic database. The guidelines also provide the basic knowledge necessary to create a sorting methodology for any party that wishes to create a database. Most importantly, the guidelines help to create a clear guide to the succession of tariff sheets.

MoPSC suggests the title page of each volume of a pipeline's tariff contain a phone number which customers and interested persons may call to make inquiries about those tariffs.

NI-Gas suggested that communications information be expanded to include an address suitable for overnight deliveries. Many pipelines use post office boxes for their general mail deliveries, but expedited delivery services cannot make deliveries to such locations. NI-Gas also recommends that the information should include a fax number, so that requests for additional information can be promptly delivered and forwarded.

NGSA recommends tariff sheets be clearly distinguished from each other as being one of the following: (1) Proposed, (2) accepted but subject to refund, and (3) approved. It often becomes very confusing as to whether the tariff being identified is currently effective (i.e., the rate currently being charged) or is to become effective on the date proposed in the filing.

The Commission finds that the proposal to add a telephone number and a fax number to the title page has merit. The regulations currently require, on the title page, the name and address of a person to whom communications concerning the tariff should be sent. A few pipelines provide a telephone number and/or a fax number on the title page now. Inclusion of a telephone number and a fax number on the title page will be made mandatory. This modest addition should foster communication about the tariff.

Pipelines are fairly evenly divided between those who put a post office box number on the title page and those who put a street address. The Commission does not believe it is burdensome to provide a street address instead of, or in addition to, the post office box number.[24] This suggestion will be adopted.

The Commission will not adopt the suggestion that the tariff sheets carry designations as suggested by NGSA. Adoption of this suggestion will require the pipelines to make filings of tariff sheets simply to change the status designation. This would consume additional pipeline and Commission staff resources. The tariff sheets available to the public at the Commission's Washington, DC headquarters are marked in the way suggested by NGSA. The electronic tariff sheets, in a format readable by the Commission's software, can be downloaded from the Commission's

[23] The guidelines and electronic filing instructions for tariff sheets may be obtained at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, Washington, DC 20426.

[24] Those pipelines who prefer communications to be addressed to a post office box number may wish to present the address information in the way Northern Border Pipeline Company does. The street address is noted specifically as the courier address.

bulletin board system. In this format, the tariff sheets each carry a status indicator: proposed, effective, superseded, withdrawn, rejected, or suspended. The tariff sheets also indicate if the order acting on the sheets accepted the sheets subject to refund.

c. *Section 154.103 Composition of Tariff.* Section 154.103 is the replacement for current § 154.34. In recognition of prevailing practice, the new section specifically requires that the tariff set forth all currently effective rates. The Commission has deleted the reference to special exceptions and changed the examples of classes of service to reflect the current prevalent designations.

d. *Section 154.104 Table of Contents.* Section 154.104 replaces current § 154.35 with the clarification that the table of contents must contain a list of the sections of the general terms and conditions.

NI-Gas states that the inclusion of a detailed listing of the General Terms and Conditions of the tariff in the table of contents will be a major improvement in the current practice of some pipelines.

Columbia's tariffs have an initial table of contents in the front of the tariff which contains a line item reference to ''General Terms and Conditions'' and lists a page number for the ''General Terms and Conditions Table of Contents'' located in approximately the middle of the tariff, at the beginning of the General Terms and Conditions. Columbia seeks clarification that this is permissible within the context of the proposed regulation; and, if not, requests that the regulation be modified to accept this format.

The intent of requiring the sections of the general terms and conditions to be listed in the table of contents is to ensure such a listing appears in the tariff. Columbia's approach to the table of contents is acceptable.

e. *Section 154.105 Preliminary Statement.* Section 154.105 replaces current § 154.36 with stylistic changes only.

f. *Section 154.106 Map.* Section 154.106 is the replacement for current § 154.37. Maps must be submitted on paper and updated to reflect major changes. The new section states a preference for zones to be displayed on separate sheets.

Williston states that there should not be a map requirement in the tariff because there is a map in the FERC Form No. 2. The Commission has found that the presence of a map in the tariff is helpful in the process of evaluating other provisions.

NGSA states that the map should identify storage, gathering, and all off-system (non-contiguous) facilities as well as ''pipeline'' facilities.

Industrials recommend that pipelines be required to serve a hard copy of system maps prepared in accordance with new § 154.106, even if the parties agree that tariff filings may be served via electronic mail, in diskette form, or otherwise.

The Commission will not adopt NGSA's suggestion to require a more detailed map in the tariff. A detailed map with the facilities NGSA wishes identified is filed annually with the Form No. 2. Since the Commission is not discontinuing paper filing of tariffs, all parties receiving service of the tariff sheets are entitled to a paper copy unless they agree otherwise. It is up to the parties and the pipeline to determine the terms of electronic service, including exceptions to electronic service.

g. *Section 154.107 Currently Effective Rates.* New § 154.107 governs the tariff sheets setting forth the natural gas company's currently effective rates. In part, this new section replaces § 154.38(d) (1) and (2). The section requires that rates be stated in thermal units, as is the prevalent practice, rather than in units of volume.

APGA points out that § 154.107 formalizes the current practice of providing a detailed statement of rates and charges in a particular location in a pipeline's tariff. APGA supports this requirement. They state it will be particularly helpful for customers to receive a complete picture of effective and proposed rates upon the filing of a new rate case.

Williston states that the language in this section appears to be adding a level of complexity to the rate schedules that is unnecessary. Williston requests clarification of a ''limited rate change.''

The Commission believes that Williston misunderstands the purpose of this section. The summary of rates would not appear in the rate schedule. This section is intended to codify the nearly universal practice of placing a summary of rates on a tariff sheet or sheets which generally appears in the tariff after the map. It is not part of the rate schedule. We note that Williston's summary of rates fully complies with § 154.107.[25] Proposed subpart E details the filing requirements for limited rate changes. To avoid confusion, the Commission will modify this section to reference Subpart E. Northwest/ Williams asks whether the required ''total rate'' column applies only to the maximum rate and whether surcharges, ACA, and GRI charges are to be included in the ''total rate.''

Section 284.7(d)(5) requires that rate schedules filed under that section must state a maximum and minimum rate. Therefore, the summary of rates must show the total maximum and minimum rates. It is preferable for all surcharges to be added into the maximum rate and, if appropriate, into the minimum rate. However, it has been the Commission's past practice, in appropriate cases, to accept summaries of rates in which the GRI surcharge is noted in a footnote at the bottom of the summary rate sheet but not added into the total rate. This has been acceptable since the GRI surcharge does not necessarily apply to all transactions under a rate schedule. The reverse is accepted also—the GRI surcharge is listed in a column and added into the total rate. In this case, a footnote states the GRI surcharge is not applicable in certain circumstances.[26] To a lesser degree, the same can be said of the ACA surcharge. The Commission will not depart from past practice on this issue. The regulations will be modified to allow the ACA and GRI surcharges to be noted in a footnote. If the footnote option is elected, the charges must be stated in the footnote, it must be clear when the charges apply,[27] and the footnote must indicate that these charges are added to the total stated rate.

Columbia, AGD, and APGA are in favor of the requirement to state rates in thermal units. APGA points out that many of its members and most LDCs bill their retail customers on the basis of units of volume. The use of units of heat content has been the standard measure for pipelines for some time.

Great Lakes requests that the Commission clarify that, for pipelines whose rates are currently stated on a volumetric basis, inclusion of a statement of rates in thermal units should take place in the pipeline's next section 4 rate case. Great Lakes also asks that the Commission clarify whether ''thermal units'' refers to dekatherms or to some other measurement. NGSA recommends that the rates be stated on the same basis (Mcf or MMBtu) as they are charged, with the units clearly

[25] Ninth Revised Sheet No. 15 to its FERC Tariff Second Revised Volume No. 1.

[26] Northwest's summary of rates reports the GRI and ACA surcharges in separate columns and adds the charges into the total rate, where appropriate. Williams, in contrast, states the level and applicability of the GRI and ACA surcharges in footnotes on its summary of rates but does not include them in the total rate.

[27] A reference to the section in the tariff where the applicability of the surcharge is explained is acceptable.

labeled. NGSA maintains that the proper unit for stating rates has been and can continue to be determined on an individual pipeline basis.

NGSA is opposed to a generic rulemaking which mandates the use of a standard unit of measure in rate case filings at this time. NGSA states that rates and tariffs should be stated in the same units as charged. NGSA states that calculating the rates based on one unit of measurement and then converting those rates to a different unit of measurement for billing purposes creates confusion. Further, NGSA states, some pipelines and shippers have negotiated private contracts based on an ''Mcf'' basis of measurement. NGSA states that the proposed requirement is a substantive change in the Commission's rate policy which was not the purpose of this rulemaking. NGSA states that in order to protect the due process rights of all parties, any Commission imposed change in measurement standards should be implemented on an individual pipeline, on a prospective basis, when the pipeline files its next major rate case. NGSA states that conversion to the thermal units will not be a simple process. Therefore, NGSA states, parties should be able to present the issues of material fact brought about by such conversion in the context of a full evidentiary hearing, wherein disputes as to the methodology of conversion may be resolved.

Kern River objects to the proposal and states that changing measurement standards at this time from volumetric to thermal would be a substantive change and would needlessly put it to the expense of converting its tariff, contracts, and business systems. Whittier adds that, at a minimum, individual pipelines, like Kern River should be permitted to be exempt, if the thermal billing mandate would impair individual shippers. Kern River states that if the final rule requires billing unit uniformity, then the new § 154.107 should be modified to require only volumetric billing units.

Whittier states that volumetric billing is good policy because volumetric rates; (1) Equitably allocate to shippers the capital and operating cost of the pipeline on the basis of the units actually transported; (2) allow shippers efficiently to use their contracted space to transport as many Btu's as the quality specifications allow, and gas suppliers are able to optimize the economic efficiency of their own facilities by making the economic decision whether to leave liquefiable hydrocarbon gases in the gaseous form and transport them in the gas pipeline or to incur the cost of extracting and marketing them as liquids; and (3) allow the appropriate costs to be divided by the appropriate throughput in volume units. Whittier argues that there is no reason for a commodity to be transported on the same basis that it is purchased.

Whittier states that forcing pipelines that are content with volumetric-based rates to change to thermal-based rates would be making a substantive change in the contracts of shippers on pipelines that measure and bill on a volumetric basis. Whittier states that this could result in reopening contracts and rates.

Chevron, Whittier, and Kern River recommend deletion of the word ''thermal'' so that the proper unit for stating rates can continue to be determined on an individual pipeline basis.

A significant majority of pipelines state their rates on the basis of either MMBtu or Dth. Only a few pipelines continue to state their rates in Mcf.[28] The Commission earlier adopted the MMBtu measurement base for all reports submitted under part 284, in § 284.4. The change to the regulations in this rulemaking expands on the Commission's earlier action and reflects the prevalent practice in the industry. The Commission recognizes that some companies perceive a hardship in switching from Mcf to Dth or MMBtu. However, the Commission also recognizes the ongoing industry concern with standardizing certain practices as expressed at the EBB conference held on September 21, 1995. Standardizing industry practices, such as stating rates in thermal units, facilitates cross-pipeline business. Accordingly, the Commission will maintain this standard in the regulations. However, in light of the difficulties expressed by some pipelines, the Commission does not intend to actively enforce this section until one year after the effective date of this rule.

NGSA recommends that the rate sheets should state the amount of each applicable surcharge and include a citation to the docket in which such surcharge level was accepted by the Commission. The Commission will not adopt NGSA's suggestion that the summary statement of rates include the citation to the docket in which each surcharge level was accepted. This would add a great deal of complexity to the summary statement of rates. The information NGSA is interested in is available publicly. Since comments in this docket were filed, the Commission provided access to each company's electronic tariff sheets on the Commission's bulletin board system.[29] Each tariff sheet which is not pending contains the citation to the order which acted on the tariff sheet. With some careful checking, a researcher can identify each tariff sheet containing a surcharge change and readily identify the order acting on that sheet.

h. *Section 154.108 Composition of Rate Schedules.* Section 154.108 replaces current § 154.38. Current § 154.38(d)(4), Refunds, is moved to § 154.501. Current § 154.38(d)(5), RD&D, is moved to § 154.401. Current § 154.38(d)(6), ACA expenditures, is moved to § 154.402. Current §§ 154.38(d) (1) and (2) are revised and moved to § 154.107. Current § 154.38(d)(3) is moved to § 154.3. Current § 154.38(e), minimum bill, is deleted.

Williston objects to the requirement that pipelines provide a description of the calculation of the monthly charges for each rate component. It argues this would cause a pipeline's tariff to become even more voluminous and onerous without serving any useful purpose. Williston requests that the Commission eliminate this proposed requirement.

Section 154.108 merely formalizes current practice. Virtually all current tariffs include a section in the rate schedules explaining how the rate is to be applied to derive monthly billings. This section of the tariff is essential to determining the accuracy of a shipper's bill. Under current practice, this section provides both a textual description of the components of the rate and the mathematical method to determine charges each month. The Commission notes that almost all pipelines appear to comply with this regulation already.

i. *Section 154.109 General Terms and Conditions.* Section 154.109 replaces current § 154.39. The company's discounting policies are added to the tariff.

AGD, NI–Gas, and the LDC Caucus support the proposed requirement that the pipeline set forth in its tariff its discount policy and the order in which each pipeline charge will be discounted. The LDC Caucus states that this would assist customers in ensuring that the pipeline's discount policy is consistently applied and that adjustment to rates to reflect discounted revenues are proper.

[28] Approximately a dozen pipelines continue to state their rates in Mcf. Another five state their reservation rates in Mcf but state their usage rates in Dth or MMBtu.

[29] Pipelines began filing electronic versions of their tariff sheets with tariff sheets effective November 1, 1989. Some of the tariff sheets filed early in the process are contained in separate archive databases.

INGAA supports a requirement of providing broad policy statements by pipeline companies concerning nondiscriminatory discounts but objects to disclosure of management policies or any specific order in which rate components would be discounted. The statement specifying the order in which each rate component will be discounted must be in accordance with Commission policy. This proposed regulation could be interpreted to require pipelines to disclose the order in which each rate component will be discounted. This portion of proposed § 154.109(c) reduces pipeline rights and flexibility as granted in Order Nos. 436 and 500. Great Lakes, Columbia, KN, MRT, and Panhandle concur.

Panhandle and Great Lakes state that a company's discount policy is commercially sensitive information. Disclosure of this information may interfere with a pipeline's ability to compete in the marketplace, thwarting the Commission's goals in Order No. 636 to foster competition and provide natural gas transportation service to the customer which values it most. Great Lakes submits that a general statement of policy will meet the Commission's intent without requiring the disclosure of commercially sensitive information.

Columbia argues the proposed requirement is too broad. Columbia notes that pipelines are already subject to nondiscriminatory standards with respect to the granting of discounts, and must post/disclose discounts to affiliates. Columbia requests deletion of this requirement to the extent it requires setting forth the ''manner'' in which rates are discounted.

KN fears that this provision would allow each pipeline to review the discounting policies of other pipelines that compete with it for business. KN states that the disclosure rule would serve to reward those pipelines that are evasive or simplistic in their policy statements and would punish those that are more descriptive or detailed. KN states that there is no valid competitive purpose served by compelling pipelines to reveal all their discount policies.

MRT fails to see the relevance of this provision. MRT states that pipelines already file discount reports and report marketing affiliate discounts on their Electronic Bulletin Boards. MRT states that this provides sufficient information for both the Commission and the pipeline's customers to monitor the discounts a pipeline is granting.

Great Lakes also states its opposition to the proposed section requiring the pipeline to state in its general terms and conditions its policy for financing and constructing laterals. Great Lakes states that pipelines must be able to evaluate each proposal to finance and construct lateral facilities on a case-by-case basis. Great Lakes states that no set policy can contemplate all of the factors which contribute to a pipeline's decision to finance and construct these facilities. Great Lakes states that a pipeline's decisions with regard to laterals are public knowledge since the financing, cost, location, and customer information related to the construction of any lateral facilities are disclosed in a pipeline's certificate application. Great Lakes state that the Commission and others have the ability to determine whether or not a pipeline is unduly discriminatory in its decision regarding the financing and construction of laterals and so, proposed § 154.109(b) is not necessary for regulatory purposes.

Section 154.109(c) merely formalizes the Commission's policy on recognition of discounts as enunciated in *Natural*.[30] Under the policy, the pipeline must recognize discounts in a specified order. The first item of the overall reservation charge discounted will be the GRI surcharge (for member pipelines), followed by the base rate reservation charge, Account 858 or other Order No. 636 transition cost surcharges, and, last, all GSR reservation surcharges. Other non-transition reservation surcharges will be attributed as agreed by the pipeline and its customers in individual proceedings.[31]

In adopting the policy in *Natural,* the Commission saw the need for a generic methodology to recognize discounts in a transition cost recovery filing. The Commission enumerated the advantages of its policy as follows:

- Maximize the pipeline's recovery of transition costs from its discounted customers,
- Minimize the need for a subsequent true-up to implement the Commission's policy of permitting full recovery of transition costs,
- Ensure transition costs are spread as evenly and widely as possible, and
- Minimize discount adjustments in periodic filings.

The requirement, in § 154.109(b), for a general statement of the pipeline's policies on laterals formalizes the Commission's policy of assuring that laterals are built on a non-discriminatory basis. By placing the general policy in the tariff, parties may more effectively monitor its application.

j. *Section 154.110 Form of Service Agreement.* Section 154.110 replaces current § 154.40 with the addition of receipt points as an item for insertion on the form when appropriate.

k. *Section 154.111 Index of Customers.* Section 154.111 replaces current § 154.41, Index of Purchasers, but with applicability specifically limited to natural gas activities not subject to part 284 of this chapter. The Commission has expanded the Index of Customers to include all firm transportation services and contract demand for each customer for each rate schedule. In the order issued in Tennessee Gas Pipeline Company's restructuring proceeding,[32] the Commission clarified that current § 154.41 is not limited to the requirement to file sales-related information. The changes here make that interpretation explicit. Some pipelines have provided contract demand information on a voluntary basis before this. The information has proven valuable to the Commission in analyzing pipelines' filings and in eliminating additional requests for information.

Pipelines that offer services under part 284 of this chapter, exclusively or in addition to services authorized under part 157 of this chapter, must comply with the requirements in the companion rulemaking instead of this provision. In the companion rulemaking, pipelines providing service pursuant to part 284 of this chapter, provide an Index of Customers on their electronic bulletin board (EBB). As an interim measure, we will require pipelines providing transportation service under part 284 to comply with the Index of Customers requirements as set forth in § 154.111 until the electronic index is implemented.

Panhandle recommends that the Index of Customers requirement remain the same as that contained in the current regulations. Panhandle objects to the expansion of the index as being anti-competitive. Panhandle objects to the inclusion of the term of each contract, arguing the duration of the contract is sensitive information. Further, Panhandle believes this

[30] Natural Gas Pipeline Company of America (*Natural*), 69 FERC ¶ 61,029, (1994), reh'g, 70 FERC ¶ 61,317 (1995). Policy applied in *ANR*, 69 FERC ¶ 61,322 (1994), and *Tennessee*, 69 FERC ¶ 61,094 (1994). Policy applied to interruptible transportation in *Southern*, 69 FERC ¶ 61,093 (1994), and *MRT*, 69 FERC ¶ 61,112 (1994).

[31] In Algonquin Gas Transmission Company, 69 FERC ¶ 61,105 (1994), the Commission clarified its policy with respect to surcharges designed to collect costs in Account No. 858. If the Account No. 858 costs at issue are not Order No. 636 transition costs, but relate to upstream capacity retained by the pipeline for operational use and are embedded in the pipeline's base rates, the policy announced in *Natural* does not apply.

[32] Tennessee Gas Pipeline Company, 65 FERC ¶ 61,224 (1993).

information serves no valid regulatory purpose.

Columbia objects to the requirement to include contract demand for each customer for each rate schedule in the Index of Customers. Columbia believes public disclosure of such commercially-sensitive information unfairly places pipelines and their customers at a competitive disadvantage in the marketplace.

AGD supports the provision and suggests that this information should be provided in both print and electronic media in order to facilitate its full use by interested parties. AGD recommends that the regulations be amended to require each pipeline to provide a sum of the MDQ contract levels by rate schedule, at least in the paper copy of the index of purchasers. This information is valuable because it facilitates analysis of billing determinants in rate cases and between rate cases.

The Pacific Northwest Commenters urge the Commission to continue to require that the tariff include a reasonably current index of all firm customers. Pipelines should be required to provide a completely current customer index on their EBBs—but on a semi-annual basis the pipeline should still file updated indices or firm customers in their tariffs.

Consistent with the action being taken in the companion rule, the Index of Customers will include the full legal name of the shipper, the rate schedule number of the service under contract, the effective date of the contract, the termination date of the contract, and the maximum daily contract quantity under the contract.

We will not adopt Columbia or Panhandle's recommendations. As we note in our companion rulemaking, the index will contain fundamental data about the natural gas industry—how much of the pipeline's capacity shippers have under firm contract. This information is basic to the Commission's understanding of events taking place in the industry. With this information, the Commission will remain apprised of trends in the industry, the willingness of shippers to hold firm capacity, the average length of time capacity remains under contract, the proportion of capacity rolling over under evergreen provisions, etc. Pipelines are beginning to deal with complex issues related to shippers' contracts coming up for renewal in the post restructuring period. [33] The lack of easily accessible data regarding customers' contract levels and contract terms could hamper the Commission's ability to assess the impact of this phenomenon on the industry. The index will provide key data for this purpose. The Index of Customers which is the subject of this section will be included in the tariff. Currently, the tariff is filed both electronically and on paper. Therefore, AGD's suggestion is moot.

We will not require the pipelines offering service under part 284 to maintain the Index of Customers in both their tariff and on their EBBs. It is the Commission's intention to reduce the filing burden on the pipelines. Access to the Index of Customers through a downloadable file or through the tariff should be sufficient. The Commission will hold future conferences on the appropriate format for the electronic Index of Customers.

The language originally proposed in § 154.111 required the index to be updated coincident with the filing of the Form No. 2 and Form No. 11. At the time, Form No. 11 was proposed to be filed semi-annually. In our companion rulemaking, we are revising the Form No. 11 and requiring it to be filed quarterly. In light of the change to the frequency of the filing of Form No. 11, we will remove the reference to Form No. 11 and modify the language in this section to preserve the semi-annual schedule originally contemplated.

l. *Section 154.112 Exception to Form and Composition of Tariff.* Section 154.112(a) replaces current § 154.52, but deletes those paragraphs dealing with the sale of gas or purchased gas cost tracking. Because the requirements of § 154.101 (Form) and § 154.102 (Title page and arrangements) are applicable, § 154.112(a) does not refer to those matters.

Section 154.112(a) specifies that special rate schedules for service under part 157 of this chapter are to be included in FERC Volume No. 2. Section 154.112(b) mirrors the provision in § 154.1(d) which requires that contracts that deviate in any material aspect from the form of service agreement must be filed with the Commission. [34] Section 154.112(b) also requires that such contracts be referenced in FERC Volume No. 1.

m. *Miscellaneous Subpart B Comments.* AGD commented that proposed Subpart B should be supplemented to include a provision requiring a pipeline seeking a rate increase to identify (a) the new rate being proposed by rate schedule and (b) for each proposed new rate the rate which represents the refund floor or ''last clean rate.'' AGD states that this information should be presented in a simple, easy-to-understand format such as a chart or matrix so that interested parties can quickly find in one place the rate levels which quantify the totality of the applicant's rate increase proposal. Pipeline rate changes are routinely made in response to various factors. Some of the resultant adjustments are made effective subject to refund. AGD state that these circumstances have the effect of obscuring the underlying rate and that AGD's recommendation is intended to simplify the task of the staff and the pipeline customer in discovering what rate is proposed and what portion of that rate is already subject to change as a result of some regulatory contingency.

AGD also suggests that many pipelines follow a practice of providing to their customers a quarterly statement summarizing the currently effective tariff sheets. This practice should be required of all pipelines as it is an efficient mechanism for keeping abreast of the developments affecting pipeline services.

Subpart B sets out the proper contents of a pipeline's tariff. AGD's suggested summary appears in § 154.7(a)(6) which requires ''a summary of the changes or additions made to the tariff'' to be included in the statement of the nature, the reasons, and the basis for the filing. Thus, what AGD seeks is already required. No additional language needs to be added to the regulations.

AGD's suggestion that the pipeline identify the last ''clean rate'' when it proposes an increased rate has merit. The identification will assist the Commission and other interested parties in determining the level of potential refunds if the proposed rate is suspended and ultimately found unjust or unreasonable. It will also alert interested parties to the fact that the underlying rate may also be in effect subject to refund. Proposed § 154.7(a) was modified to require that the letter of transmittal identify the last rate found to be just and reasonable that underlies the proposed rate.

The NGA requires a pipeline to ''keep open in convenient form and place for public inspection, schedules showing all rates and charges for any transportation or sale subject to the jurisdiction of the Commission, * * *'' [35] Historically, this provision

[33] For example, Transwestern Pipeline Co. recently filed a settlement in Docket No. RP95–271–000 to deal with the turn back of significant amounts of capacity by a key customer.

[34] The language proposed in the NOPR for § 154.112(b), which would require the filing of contracts ''that do not conform to the form of service agreement'' has been changed to be consistent with the provision of § 154.1(d).

[35] 15 U.S.C. 717c.

has not been interpreted as requiring pipelines to provide periodic copies of effective tariffs to each customer. The Commission notes that much more can be done through electronic means, today. As a result, the Commission makes available through its electronic bulletin board system, each pipeline's complete tariff for downloading. As this information is available through the Commission's EBB, we will not require the pipelines to send their customers a copy of the pipeline's current tariff on a quarterly basis.

3. Subpart C—Procedures for Changing Tariffs

a. *Section 154.201 Filing Requirements.* New § 154.201(a) is a replacement for current § 154.63(b)(1)(v), Marked Versions of Tariff Changes. The new section clarifies that changes to both text and numbers must be marked. New § 154.201(b) is a replacement for current § 154.63(e)(4), Workpapers and Supporting Data. The intent of this regulation is to ensure that all mathematical calculations are complete and logically follow from the first calculation to the last; so that, anyone attempting to recreate the calculations can do so. This requirement will also ensure that any numbers that are not directly from the company's source documents are explained.

Other parts of current § 154.63 are revised and distributed elsewhere in revised part 154.

Northwest/Williams requests clarification as to when the filing requirements of subpart C or D apply. The confusion over the applicability of subparts C and D turns on the inclusion of the section titled ''Changes in rate schedules, forms of service agreements, or the general terms and conditions,'' as proposed in subpart D, § 154.301. Some of subpart C applies to all changes to a tariff or executed service agreement, such as § 154.201 and the notice, service, and protest requirements. There are other sections in subpart C which have a more limited scope, such as the provisions for submission of new rate schedules, filing of compliance filings, and changes to suspended tariffs. The subject section is better positioned in subpart C since it applies when a pipeline submits changes to specific portions of the tariff. Subpart D applies to changes in rates other than those described in subparts E, F, G, and H. To avoid any confusion, the subject section is now § 154.204 in Subpart C.

NI-Gas supports § 154.201(a) but seeks clarification that all changes be marked, not just substantive changes. The Commission clarifies that the regulation applies to all changes in text and numbers whether substantive or not.

Williston states that § 154.201(a) should not apply to maps. The regulation requires that changes in text and numbers be marked. This includes text and numbers on pages containing maps. Whenever possible, text and numbers on maps should be marked in the same manner as text and numbers elsewhere in the filing. However, the Commission recognizes that maps are often produced in such a fashion that this is not practical. In such cases, the text and numbers on maps may be marked in any clear fashion. Further, the Commission is not specifying any particular method for marking changes to boundary lines, symbols, and representative drawings. Such changes may also be demonstrated in any clear fashion.

NI-Gas supports § 154.201(b). NGSA approves of 201(b) (2) and (4). Columbia states that while it supports adherence to principles of disclosure and open communication with Commission staff and parties concerning calculations and workpapers, Columbia avers that this regulation is too broad and subjective. Columbia states that the determination whether the calculations are complete and logically follow so that anyone can recreate them, is a subjective standard which is particularly onerous given that an incomplete filing may be rejected pursuant to § 154.5.

The Commission disagrees with Columbia. It has been the Commission's experience that pipelines have not always included all of the calculations necessary to support the proposed rate modification even though the pipeline must have these calculations in order to establish the rates in its filing. The lack of these calculations causes unnecessary delay and raises questions about the filing. It is impossible for the parties to determine if the proposed rate is just and reasonable if the calculations are incomplete or unexplained.

Section 154.201(b) serves two purposes: it gives specific guidance to the pipeline as to what is needed to fulfill the pipeline's obligation to support proposed rates; and, it gives interested parties useful information in a timely manner. This regulation should reduce the necessity for data requests.

Columbia states that if this regulation is promulgated, pipelines should not be subject to additional data requests about calculations. Columbia's suggestion is not adopted. The Commission cannot anticipate all of the information the parties may need in a rate case. It would be improper to generalize that, under any circumstances, no pipeline would be subject to additional data requests. Eliminating the possibility of any data requests concerning the pipeline's rate calculations would restrict the parties' options unnecessarily.

Pacific Northwest Commenters urge the Commission to require that each filing contain a summary customer impact comparison setting forth the amounts paid by customers under the current rates based on the most recent test period determinants compared to what they would pay under the proposed change based on the same determinants. Statements G–1 and G–2 provide this information. The Commission will not require the pipeline to provide an additional customer impact comparison. There should be sufficient information available through the filing to allow each customer to conduct its own comparison.

Pacific Northwest Commenters request that the current provision in § 154.63(e)(1) that pipelines include material reflecting rate fixing adjustments in accord with Commission orders be included here. AGD recommends that the regulation require a description of any Dth-mile study relied upon by the applicant for the rate change.

The regulations already require that the pipeline provide documentation to support proposed changes. It is not necessary to list each and every document that might be needed for such support. It is the pipelines' responsibility to provide the documents that prove that its proposed rate change is just and reasonable.

The Commission modified proposed § 154.301(c) to reinstate the original language regarding alternate material reflecting rate fixing adjustments. A regulation requiring a description of the Dth-mile study will not be adopted.

b. *Section 154.202 Filings to Initiate a New Rate Schedule.* New § 154.202 replaces current § 154.62. The new section does not apply to initial executed service agreements. Very little data is currently required to support an initial rate schedule or executed service agreement. Because many services are now provided under blanket authorizations, there is no review prior to the tariff filing. Thus, the current filing requirements are no longer consistent with the needs of the Commission for reviewing new rate schedules. The new section relates to the requirements for a new rate schedule under the blanket authority granted under part 284 of this chapter as well as to other initial filings.

NI-Gas states that § 154.202(a)(1)(iv)(B) should be expanded to include information on

surcharges and crediting. On the other hand, Williston states that § 154.202(a) should be deleted because it requires filing data not previously required, is burdensome, and prolongs review by staff.

Section 154.202(a) requires the pipeline to file basic information about the proposed service which the Commission needs to know to make an informed and timely decision. The current regulations are adapted for individually certificated services where the information would be provided in the certificate proceeding. Section 154.202(a) recognizes the transition from individually certificated services to blanket certificates. It requires less information than previously required for an individual certificate application. It is designed to provide Commission staff and others with enough information to review the rates and charges for an initial service or service provided under a blanket certificate authority. By requiring pipelines to submit this necessary information when they make their initial filing, the Commission avoids the need to formulate data requests which only delay the proceedings.

NI-Gas' interest in the applicability of surcharges to the new service is understandable. However, no modifications to the proposed regulations are necessary to accomplish NI-Gas' goal. Section 154.107 requires all surcharges applicable to a service to be displayed on the tariff sheet showing currently effective rates. If a new rate is proposed for the new service, a separate line or lines will appear on this tariff sheet. All applicable surcharges would be displayed in separate columns as provided under § 154.107(d). Therefore, the surcharges applicable to the new service would be discernible. The Commission does not believe it is necessary to expand the list under proposed § 154.202(a)(1)(iv) to list all of the possible affects of a new service upon existing shipper services since the regulations state that information is to be provided is ''including but not limited to'' the specific information noted. Any additional affects on existing service would be covered by this inclusive phrase.

Panhandle states that the regulation should be clarified to establish that only where a pipeline is proposing to change a rate previously established in the section 7 proceeding should there be a section 4 obligation. Section 154.202(b) states that where a rate, service, or facility is certificated under section 7, the tariff sheets filed to implement the terms of the certificate must comply with the requirements for compliance filings. No change needs to be made to the regulations to accommodate Panhandle's position. This regulation creates an obligation applicable to initial rates and rates and charges for services under a blanket authorization. Any proposed rate or charge that differs from the rate or charge approved in a section 7 proceeding is governed by § 154.202(b)(2).

c. *Section 154.203 Compliance Filings.* Section 154.203 is a new section addressing filings that are made to comply with a Commission order. Filings made to comply with Commission orders must include only those changes required to comply with the order. Such compliance filings must not be combined with other rate or tariff change filings. A compliance filing that includes other changes or that does not comply with the applicable order in every respect may be rejected.

APGA and NI-Gas support this regulation.

Pacific Northwest Commenters states that compliance filings should be designated and noticed as such, and recognized as not mandating action within 30 days. The form of notice now requires the pipeline to designate compliance filings.

CNG believes that § 154.203(b) lacks flexibility. CNG states that an alternate or creative response to a Commission requirement may obviate the need for a rehearing request or court appeal. CNG argues that including related rate or tariff changes in a compliance filing saves parties time and money. On the other hand, Brooklyn Union requests confirmation that compliance filings that do not conform to the applicable order in all respects will be rejected.

The regulation states that a compliance filing that includes other changes or that does not comply with the applicable order in every respect ''may be rejected.'' In practice, the Commission regularly rejects filings that go beyond the order. The Commission chose not to use the phrase ''will be rejected'' in order to allow for some flexibility to accommodate minor variations in special and rare circumstances. However, the Commission will not accept any compliance filing that contains any substantive difference from the underlying order.

d. *Section 154.204—Changes in Rate Schedules, Forms of Service Agreements, or the General Terms and Conditions.* Section 154.204 provides distinct requirements for filings to change rate schedules, forms of service agreements, or the general terms and conditions of a tariff.[36] Such filings must explain the necessity for the change and the impact on existing customers.

NI-Gas states that the inclusion of the information required in §§ 154.204 (b) and (c) will help in the timely analysis of tariff changes by interested parties.

NDG supports the proposed requirement that the filing company must include with its filing an explanation of why the proposed change is necessary and the impact on existing customers. NDG also believes that several additional filing requirements would further improve the rate review process, including requiring the distribution of workpapers provided to FERC staff in support of a filing to customers. Pipelines should be required to (1) allow interested parties to notify the filing pipeline that they wish to receive a copy of the workpapers on the filing data, and (2) include with the copy of the filing served on interested parties a notice describing the content of the workpapers.

It is unclear to what workpapers NDG refers. All workpapers referred to in § 154.204 are to be submitted as part of the filing. Thus, the pipeline is already required to submit all workpapers.

Generally, Columbia does not object to the requirements of this section. However, Columbia believes that much of the requested information is irrelevant to many tariff filings e.g., workpapers showing the estimated effect on revenues and costs over a 12-month period.

The requirements of § 154.204 are generally applicable. Further, the specific requirement to which Columbia refers has been a longstanding requirement for filings for changes other than in rate level.[37] However, if a particular requirement does not happen to apply, a statement to that effect is all that is necessary.

e. *Section 154.205 Changes Related to Suspended Tariffs, Executed Service Agreements or Parts Thereof.* Section 154.205 replaces current § 154.66.[38] The change adds two exceptions to the rule prohibiting tariff filings during a suspension period. The exceptions are ''changes made under previously accepted tariff provisions permitting periodic limited rate changes'' and ''accepted limited rate changes.'' Section 154.205 recognizes that the Commission allows periodic limited rate changes pursuant to accepted tariff

[36] This regulation appeared in the NOPR as § 154.301.

[37] See § 154.63(b)(2).

[38] This regulation appeared in the NOPR as § 154.204.

provisions and ACA and GRI surcharge changes to take place during the period of suspension. This reflects current Commission policy.

Williston commented that the provision in current § 154.66 providing that a proposed tariff or executed service agreement may be withdrawn during the suspension period with special permission should be retained. That provision has been reintroduced into the final rule.

f. *Section 154.206 Motion to Place Suspended Rates Into Effect.* Section 154.206 replaces current § 154.67(a).[39] Current § 154.67(b), Reports, is deleted. This section requires that, when rates have been suspended for more than a minimal period and the Commission has ordered changes or the rates include costs of facilities that are not in service, the motion to place suspended tariff sheets into effect must be filed at least one day prior to the date the sheets are to take effect. A motion is required where: The Commission has ordered changes; the rates include facilities that are not in service; or, the transmittal letter specifically reserves the pipeline's right to file a motion.

Section 154.7(a)(9) adds a new provision whereby the transmittal letter must include either a motion to place suspended rates into effect, or a specific statement that the pipeline reserves its right to file a later motion. If the pipeline includes a motion in its transmittal letter, then the proposed rates will go into effect at the end of the minimal suspension period. If the pipeline specifically states that it reserves its right to file a later motion, then the proposed rates will go into effect only after such later motion is filed. Also, if a pipeline fails to comply with § 154.7(a)(9) by not including either a motion or a statement, the proposed rates will not go into effect until the pipeline files a motion.

APGA requests that § 154.206(a) be amended to make the form of motion clear. However, the Commission does not believe that it is necessary to standardize such a motion.

The NOPR had proposed that when rates have been suspended for more than a minimal period and the Commission has ordered changes or the rates include costs of facilities that are not in service, the motion to place suspended tariff sheets into effect must be filed no less than 30 days nor more than 60 days prior to the date the sheets would take effect. Columbia commented that the proposed requirement would cause pipelines to estimate test period data for that portion of the test period occurring after the date the pipeline must make the motion rate filing. Columbia stated that this would only be acceptable if the Commission accepted such estimates as of the end of the test period.

CNG and Columbia recommended no change to the current practice of allowing pipelines to file motion rates one day before the effective date. CNG commented that the current rules work well but the proposed rule would require pipelines to rely on estimated plant balances in determining the level of plant in service at the end of the test period. Further, CNG stated, the pipeline would be unable to determine the status of negotiations 30 days in the future, and would be compelled to move to make the rate increase effective at the earliest possible date. In the alternative, CNG states, the longest notice period should be 6 to 10 days.

In light of these comments, the revised regulation has been modified to be consistent with the current practice of allowing pipelines to file motion rates one day before the effective date. However, individual suspension orders may require pipelines to make compliance filings earlier, to reflect changes required by the Commission.

Columbia states that § 154.206(c) should not state ''for less than one day,'' but ''for one day.'' JMC suggests a change to ''one day or less.''

Pacific Northwest Commenters suggest that the Commission retain the motion filing requirement for all suspensions of more than one day and delete the requirement for suspensions of one day or less. To comply with section 4 of the NGA, Pacific Northwest Commenters argue that the Commission should issue an express blanket grant of a motion for any filing suspended for one day or less. Pacific Northwest Commenters state that this approach would recognize the past practice of generally suspending rate increases for 5 months and other changes for less than one day. Thus, a pipeline could delay implementation where parties are resolving issues through negotiation. Pacific Northwest Commenters state that automatic implementation of a rate increase would restrict this flexibility.

JMC supports the proposal to formalize the Commission's practice of not requiring a motion when rates are suspended for a minimal period.

Panhandle states that the NGA requires that suspended rates only go into effect upon motion by the pipeline. Panhandle recommends that when the suspension period is minimal, the regulations should recognize that the transmittal letter constitutes the requisite motion unless the pipeline reserves the right to file a separate motion. This recommendation has not been adopted. Unless the pipeline reserves the right to file a separate motion, it must include a motion in the transmittal letter.

JMC requests clarification that rates for separate, distinct classes of customers need not be suspended for the same time period nor be combined together for purposes of determining whether the proposed rate is a decrease or increase. The Commission's policy is that customers should only pay for the services they receive. Rates need not be aggregated for the purpose JMC suggests.[40]

The revised regulation is consistent with current Commission practice and the purposes of the NGA. Section 4(e) of the NGA authorizes the Commission to suspend operation of a schedule and defer the use of a rate pending a hearing ''but not for a longer period than five months beyond the time when it would otherwise go into effect.'' [41] If the proceeding has not been concluded and an order made at the expiration of the suspension period, the proposed change shall go into effect ''on motion of the natural gas company making the filing.'' [42] The NGA continues that refunds may be ordered ''where increased rates or charges are thus made effective.'' [43] Historically, the Commission has considered the suspension of a rate as a necessary step to assure that refunds may be ordered when appropriate.

When the maximum five month suspension is applied, the earliest the rates will become effective is on the day after the date the motion filing is made. Where the rates have been suspended for the maximum period, there is sufficient time for the pipeline to modify its proposal, if necessary, and file the motion. However, as a practical matter, where rates have been suspended for a minimal period as allowed under the statute, a hearing could not possibly be concluded by the expiration of the period. This regulation allows the pipeline to specify whether or not the filing itself acts as a motion.

g. *Section 154.207 Notice Requirements.* Section 154.207 replaces current § 154.22 and § 154.51.[44] The new section applies only to proposed changes. Reference to former § 154.5,

[39] This regulation appeared in the NOPR as § 154.205.

[40] See Tennessee Gas Pipeline Company, 62 FERC ¶61,250 at 62,642 (1993).

[41] 15 U.S.C. 717c(e).

[42] *Id.*

[43] *Id.*

[44] This regulation appeared in the NOPR as § 154.206.

which is no longer in part 154, is removed.

h. *Section 154.208 Service on Customers and Other Parties.* New § 154.208 formally requires the filing company to serve its customers and state regulatory commissions on or before the filing date.[45] The regulation requires that all customers and state commissions receive an abbreviated form of the filing. Customers and state commissions with an interest may then request a full copy. The pipeline must provide the full copy within 48 hours. However, pipelines must comply with any customer's standing request to receive a complete filing as the initial served filing.

The NOPR invited comments on whether the informational needs of customers and state regulatory commissions would be adequately fulfilled if the filing company was only required to serve the transmittal letter and provide the rest of the filing upon request. Some pipelines have used this procedure recently to minimize the costs of reproduction and mailing where their lists of shippers are quite large.

MRT, El Paso, NGSA, and NET support serving only a transmittal letter to customers and state commissions on or before the filing date with complete copies provided on request. They state that serving complete copies wastes pipeline resources and annoys customers that are not interested.

Columbia states that it is unduly burdensome to serve all filings on all customers and suggests that the regulation be modified to require service upon firm customers on the filing date. Columbia states that such service along with the form of notice pursuant to § 154.209 is sufficient to assure adequate notice.

AF&PA, Arizona Directs, AGD, Industrials, and New York oppose allowing pipelines to fulfill service by a transmittal letter. APGA states that the service of only the transmittal letter would be neither desirable nor lawful. APGA states that without a complete statement of proposed rates, the notice is not meaningful.

Michigan and MoPSC state that state commissions should receive the full filing.

Michigan states that, considering the time restraints in which the Commission must act and the delay of requesting full service, the burden to request full service should not be on the parties.

Michigan, MoPSC, and New York suggest that the Commission require pipelines to provide state commissions and customers with notice of a filing 30 days prior to the filing date.

Michigan and New York would like the pipelines to be required to serve both the state commission and the designated counsel by the next day.

Pacific Northwest Commenters points out that ''service'' under § 385.2010 (Rule 2010) may consist of merely depositing the filing in the mail which may take 3 or 4 days for delivery. To assure that customers get more timely notice and may prepare more complete comment and analysis, they suggest that pipelines be required to certify that arrangements have been made to assure receipt by customers no later than the next business day, that customers elect whether to receive full service or just transmittal letters, and that customers be able to designate two representatives to receive service. They also request that the Commission require pipelines to provide service of orders in specific cases in lieu of Commission service.

APGA requests a requirement that pipelines must, at the request of a customer, provide next-day service to attorneys or consultants designated by customers.

AGD states that the regulation should require simultaneous service upon the Commission and all customers except those known to prefer transmittal letter service.

Columbia Distribution and NDG do not oppose offering the customers the option of receiving a transmittal letter instead of the full filing, however customers should be able to place a standing request for complete filings by the next day.

Panhandle proposes that firm customers and state commissions receive full service at the time of filing but that interruptible customers receive an abbreviated service consisting of: The letter of transmittal, the Statement of Nature, Reason, and Basis, the changed tariff sheets, and the Notice. Notice would also be on the EBB.

INGAA and ANR/CIG ask that pipelines be allowed to make an abbreviated form of service consisting of: The Letter of Transmittal; the Statement of Nature, Reason, and Basis; the changed tariff sheets; a summary cost-of-service and rate base; and, summary of magnitude of change. Customers with an interest may then request a full copy.

El Paso suggests that the service obligation be fulfilled by posting on the EBB.

In light of the responses to the NOPR, the revised regulation is a combination of the alternatives suggested by several commenters and represents a reasonable middle ground between requiring service of a complete filing and service of just the transmittal letter. The pipeline must provide the full copy within 48 hours if requested. Additionally, the pipeline must comply with any customer's standing request to receive a complete filing as the initial served filing. Customers are defined as customers of the pipeline with a contract for service as of the date of the rate case filing. While reducing the filing burden to the pipeline, this course assures that all interested parties receive complete notice adequate to making informed decisions about the proposal. Also, those parties that desire service of complete filings can make a standing request for such service in lieu of the abbreviated and 48-hour follow-up services.

i. *Section 154.209 Form of Notice for Federal Register.* Section 154.209 replaces current § 154.28.[46] The modified form reflects current practice. The form has been changed from that in the NOPR to distinguish compliance filings that do not require Commission action within 30 days from the date of filing, from other rate filings.

Michigan and New York request that the notice be modified to contain a brief narrative discussing the financial impact of the proposed change on each class of service and any conditions of service affected by the change. Michigan and New York state that filings that fail to include such notice should be rejected. The Commission rejects this suggestion. This information can be derived from the filing that is being noticed. The purpose of the notice is merely to get the attention of interested parties who may then review the full filing.

NI-Gas states that the form of notice should also include the name, address, telephone number, and FAX number of a contact person. This information is on the title page of the filing and does not need to be in the notice.

The NOPR invited comments on whether the **Federal Register** notice is useful and should be retained in addition to the Commission's electronic notice. Columbia, Consumers Power, UDC, and Northwest/Williams state that the **Federal Register** notice is useful and should be retained in addition to the Commission's electronic notice. El Paso recommends that, if paper copies of filings are required, the **Federal Register** notice should be the only document served on customers. The full filing would be available on the EBB. SoCal prefers the Commission CIPS as the

[45] This regulation appeared in the NOPR as § 154.207.

[46] This regulation appeared in the NOPR as § 154.208.

source for postings rather than the **Federal Register**.

Generally, these comments indicate that the **Federal Register** notice is useful and should be retained in addition to the Commission's electronic notice.

j. *Section 154.210 Protests, Interventions, and Comments.* Section 154.210 replaces current § 154.27.[47] The intervention, comment, and protest periods are to be standardized as has been the practice with oil pipeline tariff filings. Interventions, comments, and protests must be filed within 12 calendar days of the filing date and comments must be filed at the same time as interventions and protests.

The NOPR had proposed that the interventions, comments, and protests be filed within ''10 days'' of the filing. Many commenters objected to changing from the former 15-day time period and argued that more time was needed to adequately review the more complete initial filings. Numerous alternatives were suggested for comment periods ranging from 10 to 30 days. The Commission has balanced the need to allow sufficient time for interested parties to review a filing with the need for the proceeding to progress swiftly. The use of the 12 calendar day standard achieves this balance.

4. Subpart D—Material to be Filed With Changes

a. *Section 154.301 Changes in Rates.* Section 154.301 establishes that subpart D pertains to rate change filings under the cost-of-service methodology; i.e., all rate change filings except those filed under subparts E, F, and G.[48] Subpart D is applicable to both rate increase and decrease filings. The current special filing requirements for ''minor pipelines'' are removed. Section 154.301(c) replaces current § 154.63(e)(1). Minor rate increase filings, as now covered by § 154.63(b)(4), and rate decreases have reduced filing requirements under § 154.313. In addition, proposed changes other than to rate level must be made under subpart G, discussed infra.

NI-Gas strongly supports the proposal that a pipeline must be prepared to prosecute its case based on the information included with its original filing. NI-Gas argues that this requirement will help with the initial review by parties; eliminate the first stage of many procedural schedules; prevent a pipeline from introducing new explanations, proposals, and evidence well into the course of a contested proceeding; and allow more comprehensive Commission review initially. AGD agrees that these regulations embody the proper approach to the rate filing process, and argues that there should be no reluctance on the Commission's part to reject incomplete rate filings or any pipeline's attempts to supplement rate filings.

Conversely, INGAA believes the regulations severely restrict the pipeline's ability to defend its submitted rate case. INGAA suggests removing the word ''solely'' from this section (with regard to requiring the pipeline to rely solely on its initial filing to sustain its burden of proof on proposed changes) and broadening the material that would be admissible in the defense of a rate case. Panhandle believes requiring the pipeline to rely solely on its initial filing would actually increase the time and effort required of other parties and the Commission's staff. Panhandle maintains it is impossible to anticipate every issue the parties may raise, and that the regulations could be read to preclude the pipeline from filing supplemental direct or rebuttal testimony to address issues raised subsequent to the rate filing.

Similarly, Columbia requests clarification that nothing bars a pipeline from filing answering and rebuttal testimony in its own rate case proceedings. Williston also seeks clarification that the filing of supplemental data by the company is not precluded. The Commission confirms that this regulation does not interfere with a company's rights, during a hearing, to respond to opposing testimony and evidence.

The Commission agrees with the comments of NI-Gas and AGD, above. Further, the substantial body of rate proceeding case law as well as the practices that have developed in the prosecution of rate cases should provide a pipeline with knowledge of what issues must be developed in its case-in-chief.

Panhandle requests confirmation that § 154.301(c) relates only to proposed changes, and that the Commission does not intend by promulgating these new regulations to change the prior holdings of the courts or the Commission on the burden of going forward or the burden of proof. Panhandle also requests clarification that matters already sworn to in the filing need not be addressed again in Statement P.

The requirements found in § 154.301(c) that a pipeline must be prepared to go forward at hearing and sustain its burden of proof based on the materials in its filing are the same as those currently in effect in § 154.63(e)(1), with some editorial changes and will be interpreted by the Commission in the same way.

b. *Section 154.302 Previously Submitted Material.* Section 154.302 replaces current § 154.63(c)(1) and (2). A current FERC Form No. 2 must accompany the filing.[49]

NGT requests clarification that this regulation represents no change in current practice; submission of a copy of the Form No. 2 does not constitute part of the rate filing for which service may be required pursuant to § 154.207.

The Commission notes that the language of the revised regulation is essentially the same as the current section. The Commission clarifies that the FERC Form No. 2 remains an item by reference and does not constitute part of the filing for which service is required pursuant to § 154.207.

c. *Section 154.303 Test Periods.* Section 154.303 replaces current § 154.63(e)(2)(i) and (ii). The section has been completely rewritten.[50] The Commission clarifies that the pipeline must remove from rates moved into effect the cost of any facilities not certificated (where a certificate is required) and in service as of the end of the test period.

National Fuel requested modification to the NOPR to clarify that adjustments to the base period may include costs for facilities that do not require a certificate and are in service by the end of the test period. Language to that effect has been incorporated into the final rule.

INGAA contends that § 154.303(c)(2) requires that a plant not certificated before the end of the test period must be excluded when motion rates are filed. INGAA states that it is impossible for a pipeline to estimate when the Commission will issue a certificate in a pending matter; and therefore, pipelines are forced to exclude the facilities in the compliance filing yet all other aspects of the pipeline's activities are updated to the end of the test period.

NGT and Panhandle seek clarification that the new regulations permit the inclusion of costs of facilities that are expected to be in service by the end of the test period, regardless of the status of a pending certificate application. NGT urge that the last sentence of the revised regulation should be deleted.

INGAA states that the regulation forces pipelines to exclude from the end of test period analysis of costs for certificated facilities. INGAA states a

[47] This regulation appeared in the NOPR as § 154.209.

[48] This regulation appeared in the NOPR as § 154.302.

[49] This regulation appeared in the NOPR as § 154.303.

[50] This regulation appeared in the NOPR as § 154.304.

procedure should be adopted whereby a pipeline may reflect the cost of facilities in service prior to the end of the test period if the end of the test period is beyond the effective date of the proposed rates.

NET suggests a clarification that permits adjustments for facilities for which a certificate application is pending, subject to the requirement of § 154.303(c)(2) that such costs be excluded if the facilities are not in service by the end of the test period.

In light of the above comments, the proposed regulation has been modified to allow adjustments for facilities for which a certificate application is pending, subject to the requirement of § 154.303(c)(2) that such costs be excluded if the facilities are not in service by the end of the test period.

Columbia urges the Commission to consider a more forward looking test period. That is, allow pipelines to project the more routine cost items (such as inflation and labor) one year beyond the end of the current nine-month test period. This comment is, in effect, seeking an extension of the test period. This the Commission is reluctant to do. The regulations are constructed so that the rate paid by a customer is based upon the costs incurred previously by the pipeline for providing the services to that customer. The adjustment period allows for the inclusion in rates of costs for items that are not a benefit to the rate payers at the time of filing but will be within a reasonable time thereafter. The Commission has set the cut off point for such costs at 9 months past the end of the chosen base period. The commenters have not shown that this period is unreasonable.

d. *Section 154.304 Format of Statements, Schedules, Workpapers, and Supporting Data.* Section 154.304 replaces current § 154.63(c)(3) and § 154.63(e)(4).[51] The Commission requires a narrative explanation of each proposed adjustment to base period actual volumes and costs.

INGAA states that the requirement to provide accounting workpapers to support data or summaries reflecting the pipeline's books of account will place a burden on the companies since the accounting workpapers could be voluminous. The information should only be provided when specifically requested by the Commission auditor. This suggestion has been adopted.

With respect to statements, schedules, work papers and supporting data, NGSA recommends that the filing format be standardized by requiring that narrative explanations be placed at the beginning of the specific statement or schedule to which they apply. To reduce discovery burden rate case statement updates should be provided to parties specifically requesting them, as well as to the Commission. This suggestion has been adopted.

e. *Section 154.305 Tax Normalization.* Section 154.305 replaces current § 154.63a with revisions to clarify the section's applicability.[52] Pipelines will continue to be required to use tax normalization to compute the income tax component of the cost-of-service and to adjust rate base by accumulated deferred income taxes related to components of the cost-of-service.

f. *Section 154.306 Cash Working Capital.* Section 154.306 replaces current § 154.63b.[53]

g. *Section 154.307 Joint Facilities.* Section 154.307 replaces current § 154.63(e)(3) with stylistic changes.[54]

h. *Section 154.308 Representation of Chief Accounting Officer.* Section 154.308 replaces current § 154.63(e)(5) with only stylistic changes.[55]

i. *Section 154.309 Incremental Expansions.* Section 154.309 requires separate statements and schedules for incremental facilities, including those with Commission imposed at-risk provisions.[56] In some cases, pipelines maintain independent rate schedules (incremental rates) that are based on the costs of specific facilities. Separate statements and schedules for such facilities need to be provided to permit a proper evaluation of the rates based on the costs of those facilities. When pipelines have been unable to fully subscribe certain construction projects, the Commission has permitted construction to go forward with the pipeline placed at-risk for recovery of the costs associated with the unsubscribed capacity. Separate statements and schedules for at-risk facilities need to be provided so that the Commission can compare the revenue generated from the use of the facilities with the cost of the facilities, and determine whether to remove the at-risk condition.

The Pacific Northwest Commenters object to the requirement that separate data be provided for major expansions since the pipeline's last rate case. They are concerned that this provision may impinge upon the development of policy in Docket No. PL94–4 on the pricing of pipeline facilities. Pacific Northwest Commenters suggest that until the Commission announces its policy, it would be better served to limit the scope of § 154.309 to existing incrementally priced services. NGSA makes a similar argument.

Since the NOPR was issued, the Commission has issued its policy statement regarding the pricing of pipeline facilities; and so, Pacific Northwest Commenters concerns are moot.[57]

Northern Border argues that this section appears to require the filing of a rate case within a rate case for facilities certificated with at-risk provisions. Northern Border states that this section appears to require a complete set of filing exhibits to be created for each separate at-risk facility even if the at-risk condition is not likely to be triggered and/or the company is not requesting within a rate case filing to remove the at-risk provision. Northern Border proposes that, if an at-risk provision has been triggered or it is certain to be triggered during a reasonable forthcoming period, then the company should be required to include in its filing any necessary information to support it position in that regard.

INGAA seeks clarification that the Commission did not intend for the pipeline to file separate schedules under § 154.312 and § 154.313 for each major expansion. INGAA proposes that § 154.309 be eliminated and that the Commission continue the current practice of including the information in Schedule C. Alternatively, the data required could be provided in summary form. Columbia does not object to providing certain summary schedules with respect to incremental and expansion facilities, but objects to the apparent requirement to provide a full filing pursuant to § 154.312 and § 154.313. Columbia supports INGAA's comments and further requests the Commission clarify what is meant by the term ''major expansion.''

El Paso also argues that the regulations should provide for flexible exhibits that produce information sufficient to demonstrate the pipeline's position with respect to incremental, at-risk, and major expansions since the pipeline's last rate case.

Great Lakes argues that this section: (1) Is premature until the Commission

[51] This regulation appeared in the NOPR as § 154.305.

[52] This regulation appeared in the NOPR as § 154.306.

[53] This regulation appeared in the NOPR as § 154.307.

[54] This regulation appeared in the NOPR as § 154.308.

[55] This regulation appeared in the NOPR as § 154.309.

[56] This regulation appeared in the NOPR as § 154.310.

[57] Pricing Policy For New And Existing Facilities Constructed By Interstate Natural Gas Pipelines, Docket No. PL94–4–000; Statement of Policy, 71 FERC ¶ 61,241 (1995).

determines its course of action in Docket No. PL94–4; (2) fails to recognize that each cost may not be separately identifiable; and (3) magnifies the size of an applicant's filing (in Great Lakes's case, at least 7 separate sets of schedules and statements would be required). Great Lakes urges the Commission to delete proposed § 154.309. TransCanada filed similar comments.

NI-Gas supports the separate reporting of the costs associated with facilities subject to an at-risk condition. NI-Gas also states that a pipeline should be required to report the revenues associated with at-risk or incremental facilities and the reasons why it allocated the revenues to those facilities, rather than unsubscribed ''general'' system capacity.

The Commission did not eliminate proposed § 154.309 as requested, but did modify this section in several respects. First, the Commission deleted the requirement that this section applies to ''every major expansion since the pipeline's rate case.'' This information may be too broad and need not be filed with the rate case filing. In this respect, the Commission notes that § 154.312, Statement O, as modified by this rule, requires pipelines to list each major expansion and abandonment since the pipeline's last rate proceeding and provide the costs by function. This summary data should provide adequate information for parties in the proceeding to evaluate significant changes since the last rate case proceeding.

The Commission will require that the pipeline provide a summary statement that lists the cost-of-service components and revenues associated with each incremental and at-risk facility in lieu of separately identifying each cost on the statements and schedules contained in § 154.312 and § 154.313. However, where applicable, appropriate cross references to § 154.312 and § 154.313 should be made. This change eliminates the bulk of the burden imposed by the section as proposed. The summary statement should provide pipelines with the flexibility sought by El Paso.

Permitting the summary statement, in lieu of a separate identification of each cost and revenue contained on the statements and schedules in § 154.312 and § 154.313, balances the parties' needs for informative data, but will not be so burdensome as to require a ''rate case within a rate case'' as suggested by some parties.

Lastly, with respect to NI-Gas' request to include revenues associated with the incremental and at-risk facilities, the pipeline will need to cross reference the statements and schedules contained in § 154.312 and 154.313. These sections include the recording of revenues (For example, Schedule G–4). Therefore, the information sought by NI-Gas will be provided in the pipeline's filing.

j. *Section 154.310 Zones.* Section 154.310 requires a cost breakdown by zone if the pipeline maintains records of costs by zone.[58]

Panhandle commented that proposed § 154.310 and § 154.312 were inconsistent. Proposed § 154.310 required cost-of-service by zone only if a pipeline proposes a zone rate method, while proposed § 154.312 appeared to require a cost-of-service for each zone regardless of the underlying rate method. Panhandle suggested clarifying language. The Commission agrees with Panhandle. Section 154.310 requires a cost-of-service by zone only if a pipeline maintains records of costs by zones and proposes a zone rate methodology based on these costs. Section 154.312, Schedule I–1 (c), has been modified as proposed by Panhandle.

SoCal states that if the company files for zone rates, whether to continue existing zone rates or to establish zone rates, a cost breakdown should be mandatory. However, the Commission does not order companies to maintain plant accounts and cost-of-service by zone. This is an election made by the individual company. Section 154.312, Schedule I–3 (a) requires a company to show how the cost-of-service is allocated among rate zones by function. This schedule should give SoCal the information it seeks by zone.

k. *Section 154.311 Updating of Statements.* The Commission requires certain Statements and Schedules to be updated, once, 45 days after the end of the test period.[59] This provision has been changed from the NOPR which required the statements and schedules to be updated, quarterly, for each month of the test period.

In response to comments, the Commission agrees that quarterly updates are burdensome and will require only one update at the end of the test period.

Northern Border states that this provision should not apply to pipelines with cost-of-service tariffs. Because such pipelines do not rely on test-year adjustments, updates would be burdensome and unnecessary. This section was created to govern the vast majority of the regulated entities that do not have cost-of-service tariffs. We agree that the update is not necessary for a pipeline with a cost-of-service tariff. Therefore, Northern Border's request for a waiver of this section is granted.

MoPSC requests clarification that the filing of updated material for the test period does not amend the company's direct case. MoPSC contends it is essential that the Commission clarify that the required filing of updated actuals will not amend/change a company's direct case and that updates are intended to provide the Commission and interested parties with additional information to help evaluate the projections and estimates used by a company in its direct case. The Commission grants both these clarifications.

l. *Section 154.312 Composition of Statements.* Section 154.312 replaces current § 154.63(f) with revisions to the statements and schedules as discussed below.[60] Many changes are self explanatory or merely editorial and are not discussed here.

1. *Schedule B.* INGAA requests that regulatory assets and liabilities not be listed on Statement B unless entries specifically are reflected in the computation of rate base.

The Commission agrees with INGAA's comments and clarifies that regulatory assets and liabilities should only be listed if the pipeline seeks recovery of these items in the computation of rate base.

2. *Schedule C.* Columbia states that only the end of base period balances and test period adjustments and end of the test period balances should be reflected on this statement. The Commission disagrees. These beginning balances are currently required and have proved to be necessary for a complete analysis of the pipeline's plant and examination of specific plant changes.

NGSA recommends that Account 117 include volumes, as well as costs, by subaccount and show activity by month for the base period, including Account 117.4 (gas owed to system gas). NGSA believes this modification is necessary to track the use of system gas.[61] The Commission agrees with NGSA's recommendation that Account 117 should include volume data and show monthly activity to track the use of system gas. In this restructured era, an accurate accounting of system gas is important for the determination of the appropriate level for storage gas and of

[58] This regulation appeared in the NOPR as § 154.311.

[59] This regulation appeared in the NOPR as § 154.312.

[60] This regulation appeared in the NOPR as § 154.313.

[61] NGSA in its comments to the companion rule suggested modifications to the Commission's proposal by retaining Account 117 as ''Base Gas'' and Account 164 as ''Working Gas''.

capacity retention. Proposed Statement C was modified accordingly.

3. *Schedule C–1, End of Base Period Plant Functionalized.* Schedule C–1 does not refer to storage facilities as ''underground'' or ''local'' and requires the showing of plant in service by functional classifications.

INGAA states that the same information is proposed to be required by both Schedule C–1 and Statement I. INGAA's observation is correct, proposed Schedule C–1 and proposed Statement I were duplicative with regards to the requirements to reflect plant by zones and expansions. Therefore, these requirements have been removed from revised Schedule C–1.

INGAA and Columbia commented that proposed Schedules C–1 and C–2 appear to break information currently contained only in Schedule C–1 into two schedules. INGAA recommended that proposed Schedule C–2 be deleted and the information be included in Schedule C–1 in order to avoid an unnecessary administrative burden.

Proposed Schedule C–1 provided data on the functional gas plant for the base period. Proposed Schedule C–2 provided data on the functional gas plant for the test period. The Commission agrees with INGAA and Columbia that these schedules should be combined in order to avoid unnecessary administrative burden. Accordingly, Proposed Schedule C–1 has been modified to include the data provided in Proposed Schedule C–2. Proposed Schedule C–2 was deleted and all subsequent schedules renumbered.

Columbia states that the only significant data necessary is total plant in service (as reflected in Account 101, et. seq.) and not data by Account 300, et seq. Columbia states that the language specifying that plant in service be detailed by account numbers should be deleted. The Commission did not adopt Columbia's suggestion. The current regulations require gas plant in service by plant account. The Commission has found that account balances for plant in service are critical to the analysis of changes in gas plant and determination of depreciable plant.

4. *Schedule C–2 (Proposed Schedule C–3).* INGAA states that listing every work order separately will result in unneeded and unhelpful detail. INGAA suggested grouping by category of items whose cost is less than a threshold level of $500,000. To reduce administrative burdens, the Commission adopted INGAA's proposed modification to permit grouping by category of items where the cost is less than $500,000. Proposed Schedule C–2 was modified accordingly.

Columbia states that this information is provided in Schedule C–1 as plant adjustments and Schedule C–2 should be eliminated.

The Commission agrees that the plant totals are included in Schedule C–1 as plant adjustment. However, the details of the plant adjustments (i.e., work orders) are not reflected. The components of these plant adjustments provide the data necessary to determine the accuracy of the proposed plant adjustments and to determine which additions are pending certificate authorizations.

5. *Schedule C–3 (Proposed Schedule C–4).* Columbia and INGAA state that Schedule C–3 requires duplicate information and should be eliminated because the pipeline customers own the majority of the gas.

This is true for those pipelines whose storage gas is owned by the customers. However, many pipelines still own a portion of the storage gas as base and system gas. Those pipelines must report this data.

AGD and Brooklyn Union recommend that this schedule specify: (1) Monthly storage gas quantities; (2) the term ''storage projects owned'' be defined to include storage projects under contract to a pipeline; (3) data on customer-owned gas, separately states the amounts held in Account Nos. 117 and 164; and (4) pipeline owned and contracted storage volumes be shown separately for Account 117 gas and Account 164 gas. AGD concludes that these modifications will assist pipeline customers and Commission staff in analyzing a pipeline's usage of storage resources.

Modifying the regulations as recommended by AGD and Brooklyn Union will aid in our investigation of the storage projects. The Commission clarifies that the term ''storage projects owned'' includes storage projects under contract to a pipeline. We note that customer-owned gas is not reflected on the pipeline's books and therefore, is not included in Account 117. Further, Schedule C–3 must reflect the monthly volume activity in Account 117 and separately state the amounts and volumes held in Account 117 for pipeline owned and contracted storage.

Columbia requested that the Commission reestablish the ability to cross reference Schedule C–3 to FERC Form No. 2. The Commission agrees that FERC Form No. 2 is an integral part of the Commission's analysis of the pipeline's filing. Accordingly, the revised regulation reestablishes a pipeline's ability to cross reference Schedule C–3 with FERC Form No. 2.

6. *Schedule C–4 (Proposed Schedule C–5).* Williston states that this schedule should be eliminated because the requested data is also provided in FERC Form No. 2. The Commission did not adopt Williston's suggestion. The Commission agrees with Williston that the information required on this schedule would be duplicative if the pipeline has not changed its procedures since it last filed FERC Form Nos. 2 and 2–A. Therefore, the Commission's clarifies that Schedule C–4 must be reported only if the pipeline has changed any of its procedures since the last filed FERC Form Nos. 2 or 2–A.

7. *Schedule C–5 (Proposed Schedule C–6).* Columbia recommends that since Accounts 101 and 106 can only be included in a pipeline's gas operations, this schedule should be eliminated.

Schedule C–5 is reported only if significant changes over $500,000 have occurred since the end of the year reported in the company's last FERC Form No. 2.

8. *Schedule D.* Columbia and INGAA recommend that only the base period adjustments and test period balances be reflected on this schedule. Furnishing these beginning balances is required by the current regulations. The Commission has found that the beginning balance is necessary for the analysis of the pipeline's plant reserve and examination of specific plant reserve changes.

Columbia states that any authorized negative salvage value reflected as a separate part of Account 108, should be required only if the negative salvage value is defined and looking forward. Adopting Columbia's suggestion would also require creating a separate subaccount to specifically identify these amounts in the reserve account and enhance our analysis of the negative salvage account balance and associated rates. Accordingly, proposed Statement D was revised to require that any included negative salvage value must be separately maintained in a subaccount of Account 108.

9. *Schedules D–1 and D–2.* Proposed Schedule D–1 required actual end of base period depreciation, depletion, and amortization balances by functional classifications. Proposed Schedule D–2 required projected end of test year balances for depreciation, depletion, and amortization by functional classifications. Columbia and INGAA state that Proposed Schedule D–2 should be deleted because the information is currently reported on Statement D.

Proposed Schedule D–1 provides the functional gas plant for the base period and Proposed Schedule D–2 provides

the functional gas plant for the test period. The Commission agrees with Columbia and INGAA that these schedules could be combined in order to avoid unnecessary administrative burden. Therefore, proposed Schedule D–2 was deleted and combined with Schedule D–1 and Schedule D–3 was renumbered as Schedule D–2.

10. *Schedule D–2 (Proposed Schedule D–3).* Williston states that this schedule should be eliminated because the data is also provided in FERC Form No. 2. However, Schedule D–2 (proposed Schedule D–3) is filed only if a policy change has been made effective since the last annual report on FERC Form No. 2 or 2–A was filed with the Commission. Thus, there is no need to make the change suggested by Williston.

11. *Statement E.* Panhandle proposes to revise the instructions for Statement E to reinstate the deletion of the gas stored underground. In response to numerous commenters in the companion rule, the Commission decided to permit a pipeline, in its next rate filing, to choose either the fixed asset or the inventory model for storage accounting. Therefore, all current gas stored underground previously recorded in Account 164 will be recorded in Accounts 117.2, System Balancing Gas, and 117.3, Gas Stored in Reservoirs and pipelines-noncurrent. Account 117.2 will be reflected in a pipeline's gas plant on Schedule C. Only gas for resale from underground stored recorded in Account 117.3 will be reported in Statement E. No additional recognition will be accorded system gas in working capital, since no working capital requirement should result from system balancing. Therefore, Statement E reinstates the gas for resale underground storage. If a pipeline believes it can show a working capital requirement for system gas, then the pipeline can file for cash working capital in accordance with Schedule E–1.

Panhandle states that companies should continue to have the right to request working capital treatment for other items. The Commission clarifies that a company has the right to request any working capital treatment of any justifiable item and the Commission can rule on the appropriateness of that item based on the evidence presented.

12. *Schedule E–3.* Northwest/Williams recommend that this schedule should only be submitted by a pipeline utilizing an authorized PGA mechanism. The Pacific Northwest Commenters recommend that Schedule E–3 be submitted by any company which utilizes an authorized PGA mechanism or which utilizes storage for system balancing. In addition, Panhandle states that the instructions for Schedule E–3 should be revised by deleting the first sentence restricting this schedule of gas stored current to applicants utilizing a PGA mechanism.

Currently, there are only two pipelines with authorized PGA mechanism and these pipelines have no storage. Thus, there is no reason to maintain this schedule as originally proposed.

Panhandle does not support the change in accounting for storage and therefore believes current Schedule E–2 should be retained. Since pipelines may have gas for resale in underground storage, the current Schedule E–3 will need to be reinstated to allow the reporting of this gas. Thus current Schedule E–2, Storage Gas Inventory, is reinstated as revised Schedule E–3.

14. *Schedule E–4.* NGSA recommends that Schedule E–4 (Storage Inventory) show and explain the source, pricing, each use of working gas (i.e., system balancing, working gas for sale, etc.) and be reconciled to Account 117.3 (injected base gas, recoverable) and Account 117.4 (gas owed to system gas). NGSA deems this modification necessary to track the use of system gas. (NGSA in its comments to the companion rule suggested retaining Account 117 as ''Base Gas'' and Account 164 as ''Working Gas''.) The Pacific Northwest Commenters believe that this information on storage inventory will be valuable for any pipeline utilizing storage to provide system balancing.

The Commission agrees with NGSA's and Pacific Northwest's [62] comments that the tracking of system gas is important. The companion rule allows pipelines to use either the fixed asset model or the inventory method for storage accounting for system gas included in Account 117. Thus, system gas will be reported in Account 117.2 will be accounted for or tracked on Schedule C. Account 117.3 will be reported on Schedule E–3 and will reflect only gas for resale from underground storage. No working capital requirement results from Account 117.4. Therefore, proposed Schedule E–4 is not necessary and will be deleted.

15. *Proposed Schedule E–5.* INGAA states that proposed Schedule E–5 shows cross-references to other schedules containing the computations and explanations, and so, this filing requirement should be made optional to serve pipelines filing a lead-lag study.

Columbia states that the proposed schedule should be consolidated with Statement E or eliminated because it requires the components of working capital to be set forth in sufficient detail and contain cross references to other schedules containing the computations and components of working capital.

The Commission agrees with INGAA's and Columbia's comments and incorporated the language of proposed Schedule E–5 into Statement E and did not promulgate proposed Schedule E–5.

16. *Statement F–2.* NDG recommended requiring the filing pipeline to submit a table showing the pipeline's earned rate of return on rate base and earned return on equity for the base period. Thus, the Commission and interested parties would be able to (1) evaluate whether the Commission orders on previous rate filings have enabled the filing company to earn the Commission authorized return and (2) evaluate the pipeline's proposed revenue requirements.

The Commission disagrees with NDG's recommendations to modify proposed Statement F–2. The information can be calculated from data available in FERC Forms No. 2 and 2–A.

17. *Statement G, Revenues, Credits, and Billing Determinants.* Statement G replaces current Statement G (Gas operating revenues and sales volumes). The revised Statement G is a summary of information on all jurisdictional services. Statement G must be filed with the rate case. More specific information, in Schedules G–1 through 6, must be filed 15 days later. Schedules G–1 through 6 must also be served on parties that request such service within 15 days of the filing. The sixth paragraph of current Statement G(e), concerning credits, is now found in Statement G subparagraph (2). The Commission requires the allocated GSR component of IT rates to be unbundled and treated as a separate component for rate case filing purposes in order to better compare and reconcile the cost-of-service to revenues. AGD supports the portion of Statement G which provides that the filing must identify the GSR component of interruptible transportation revenue as a ''transition cost.''

The Industrials suggest standardized customer names or some way to correlate data between Statement G and the proposed Index of Customers (§ 154.111). The Commission does not believe it is necessary to standardize names. Based on our experience, it is not difficult to correlate the names used in Schedules G–1 and G–2 with those in the Index of Customers.

AGD recommends that Statement G be modified so that Statement G is required to be submitted to ''all Customers'' not

[62] See comments on Schedule E–3.

just to ''all affected customers.'' Under the revised regulation, all customers who are customers of the pipeline on the date of the filing of the rate case will receive an abbreviated form of the filing. Any customer who has a standing request for service of the full filing will receive the full filing, including the summary Statement G on the date of the filing. Any other customer may request service of the complete filing and receive the complete filing (with the summary Statement G) within 48 hours of the request.

INGAA proposes that Statement G only include totals by rate schedules and zones. Some pipelines proposed that detailed information only be provided for customers that pay the maximum rate and that aggregate information would be provided for customers that receive discounts.

Panhandle, Great Lakes, and ANR/CIG state that the proposed regulations governing Statement G significantly expand the previous requirements and increase the burden on pipelines, without demonstrable benefit.

CPCo and MGSCo believe that the Commission's proposed Statement G would require pipelines to reveal commercially sensitive information. Panhandle, INGAA, ANR/CIG, Great Lakes, and El Paso state that pipelines should not be required to disclose commercially sensitive information in Statement G. CPCo and MGSCo believe that the Commission proposal should be modified such that information that is truly commercially sensitive need not be provided until a protective agreement covering such has been signed by the parties.

The Agreement filed by INGAA and AGD contained a detailed alternative structure for Statement G. ANR/CIG also suggested revisions to the Commission's proposed Statement G reporting requirements.

In light of the above comments, proposed Statement G has been modified substantially. The Commission has required a summary Statement G to provide enough information to begin the analysis of the rate case. However, the customer specific information is not required immediately; and, is only served on customers requesting service. The Commission has not adopted commenters' position that such detailed information is generically confidential, privileged, or proprietary. Rather, the Commission concludes that, in the ordinary course, such information should be publically available.

In support of the proposal in the AGD and INGAA Agreement that contracts, discount information, and specific customer information relating to revenue impact and billing determinants would be submitted under seal, the Agreement stated ''AGD and INGAA agree that the information discussed below is commercially-sensitive and that its publication in mandatory filings may be detrimental to competition. AGD and INGAA believe that the goals of the regulatory process can be achieved without divulging information which is commercially-sensitive.'' [63]

The request that portions of the filing be treated as confidential on a generic basis finds little support in either the statutory framework or precedent. The NGA, on its face in section 4, requires pipelines to file contracts when seeking a rate change. Section 4(c) of the NGA provides that the pipeline shall file, under the Commission's regulations, and shall:

> Keep open in convenient form and place for public inspection, schedules showing all rates and charges for any transportation or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

If confidentiality is required as to any specific contract, § 388.112 of the Commission's regulations sets forth the procedure to be followed. [64]

With the introduction of competition in the interstate sale of gas, the Commission has sustained the claim of confidentiality with respect to price information where the party lacks market power, because the information could be used by competitors to undercut that party's bids. There is a different answer for transportation-related information. Unless proven otherwise, there is a presumption that a pipeline still retains a substantial degree of market power in the transportation of natural gas. Therefore, the Commission cannot presume the existence of competition for transportation. When the claim of confidentiality has been asserted in Commission proceedings, the Commission has required the claim to be supported with specificity, rather than with vague and speculative allegations of competitive harm, [65] since the Commission must ''balance the need for public disclosure against the harm caused by release of the information.'' [66] The Commission intends to apply this standard to the customer-specific information in Schedule G.

18. *Schedule G–1, Base Period Revenues.* Schedule G–1 requires data on actual revenues for all services and customers, rather than solely on sales revenues, as currently required by Schedule G(a), or solely aggregate transportation revenues, as currently required by Schedule G(c). Schedule G–1 also requires: (1) Identification of revenues by customer, by rate schedule, by month, and by billing determinant (not adjusted for discounting) which is similar to the data currently required by Schedule G(e) fifth paragraph; (2) separate identification of revenues for short-term firm transportation services; (3) capacity release information; (4) an identification of affiliated customers; and (5) identification of rate schedules, where revenues are credited as currently required by Schedule G(c).

NI-Gas supports Schedule G–1, specifically the reporting of the actual revenues, including actual billing determinants. Panhandle states that base period data on revenues (Schedule G–1) serve no purpose in the design of rates and should not be required because rates are designed using base period volumes as the starting point for determining an appropriate level of test period volumes, but base period revenues are not used.

The Commission disagrees. This information is needed to compare the level of revenue change. The Commission notes that Schedule G(1) reduces the burden by nearly half, compared to the current regulations, because a pipeline is no longer required to show existing rates with test period volumes and proposed rates with base period volumes. [67]

The Commission clarifies, as requested by AGD, that the reference to ''associated revenues'' in Schedule G–1 in connection with released capacity relates only to the pipeline's collection of commodity charges received from replacement shippers.

Pacific Northwest suggested that the Commission clarify that the ''separate identification'' of capacity release transactions means that pipelines are to group together base period services which were rendered for replacement customers, and indicate which customers released the capacity to the replacement customer. The Commission is not requiring the separate identification of transactions for

[63] Agreement at 2. In the initial comments, INGAA had expressed similar objection to public disclosure, stating that the ''proposed disclosures would undermine the pipelines' competitive position and would eventually stymie the same market competition that the Commission strives to foster''. See pp. 3, 6, and 9.

[64] 18 CFR 388.112.

[65] Trunkline Gas Company, 49 FERC ¶ 61,227 (1989).

[66] ANR Pipeline Co., 65 FERC ¶ 61,280 at 62,305 (1993) (*ANR*).

[67] See current § 154.63, Statement G (a) and (b).

replacement customers. Since ''replacement'' customers have become ''primary'' customers of the pipeline, they will be identified in the same manner as all other ''primary'' customers. The Commission is, however, requesting summary information in Statement G on capacity release revenues and throughput in order to evaluate the effect of the secondary market on the level of other services, such as interruptible transportation.

Pacific Northwest suggested changing the fifth sentence to: For transportation services provided through released capacity during the base period, identify the released usage quantities and associated revenues by rate schedule, by contract, by month, and totals for the base period, and identify the customer that released capacity. The proposed regulation was modified similarly to Pacific Northwest's suggestion.

19. *Schedule G–2, Adjustment Period Revenues.* Schedule G–2 requires information similar to that required in Schedule G–1.

Panhandle and Great Lakes state that the requirements of Schedule G–2 should be modified as there is no need to provide the requested information by customer since rates are designed by rate schedule, not by customer. This suggestion was not adopted. The Commission believes that the customers should know the specific impact of the changes. Further, the Commission observes, this requirement is contained in the current regulations and we have not been persuaded that a change is necessary.

Williston states that Schedule G–2 requires that billing determinants not be adjusted for discounting. Williston believes that this could cause a distortion in the calculation of proper rate levels. However, such an adjustment is contemplated in Statement J–1. The purpose of Statement G is to show actual and estimated throughput levels, unadjusted for discounting.

ANR/CIG state that Schedule G–2 does not necessarily allow for the validation of either cost-of-service data or proposed rate design, as there is no linkage between designed and discounted rates.

The Commission finds that this data is necessary because revenue should match the cost-of-service plus any surcharges.

ANR/CIG also state that Schedule G–2 requires a level of detail which is simply not available with regard to discounted services. The Commission believes that if a pipeline's rates reflect discounted services, detailed information to support such discounts must be provided. The Commission believes that discounting information is available if the pipeline's proposed rates simply reflect a continuation of the discounts experienced in the base period. If, however, the pipeline is projecting different types of discounting, the pipeline must provide data to support such discounting in Schedule G–2. Indeed, the Commission believes that this information is necessary for the pipeline to meet its burden of proof that proposed rates are just and reasonable.

Third, ANR/CIG state that the requirements of Schedule G–2 exacerbate the confidentiality concerns raised by the industry both at the pipeline and shipper levels. Instead, ANR/CIG suggest that the Commission should require a revenue study using maximum rates and design determinants. The Commission's position on confidentiality is discussed supra.

Columbia states that including the effect of rates that may have been in effect for a limited period of time during the base period will only serve to distort the revenue comparison. The Commission disagrees. The base period is a snapshot of a period of time and provides a necessary reference point for determining the rates for a subsequent period.

Great Lakes states that monthly adjustment period information would not be useful and should not be reported in Schedule G–2. The Commission disagrees. This monthly information is currently required by § 154.63(f), Statement G(b), and is used in determining trends in throughput and whether seasonal rates are appropriate. There has been no persuasive argument to change this requirement.

Pacific Northwest contends that pipelines should not be required to attempt to identify expected future capacity releases by each customer that is expected to release capacity; rather, the pipeline should be required only to identify a total expected level of capacity release activity based on experience in the base period as adjusted. The Commission disagrees. The base period identifies capacity release data by customer and the pipeline must justify any changes to base period services in order to adequately explain any proposed changes in rates. If the test period data is not provided with the level of detail required, customers would not be able to challenge the pipeline's projections with respect to their deliveries.

NI-Gas and Pacific Northwest ask the Commission to clarify that pipelines are expected to include in the adjustment period a representative level of services for which there may not be firm contracts with primary terms extending to the test period, including interruptible and short-term firm services. The Commission believes this is already required by the regulations. Pipelines have always had the burden to propose throughput based on actual experience adjusted for known and measurable changes. If the pipeline provided interruptible and short-term firm services during the base period, but did not include representative levels for such services in the test period projections, it must justify the difference in Schedule G–3.

Pacific Northwest suggests the Commission change the fifth sentence to read as follows: Show separately any projected or representative level of released capacity usage quantities (Unadjusted for discounting) and associated revenues by rate schedule, by contract, by month, and totals for the projected period. The Commission believes that the proposed language change improves the text of the regulation. Accordingly, this suggestion has been adopted.

NGSA states that to reconcile cost allocation and revenue recovery, surcharge revenues should be separately shown for each applicable surcharge; to reduce the filing burden, Schedules G–1 (Base Period Revenues) and G–2 (Adjustment Period Revenues) should show total volumes and revenues by month, rate schedule (separately showing overrun and capacity release), rate charged and zone of receipt/zone of delivery (or other category by which rates are charged). NGSA asserts that information by customer should be available only upon specific request. These comments are supported by Chevron and generally supported by IPAA. The Commission notes that Statement G(A)(1) requires the separate identification of revenues from surcharges. Further, as noted earlier, the revised regulations only require the service of customer-specific information contained in Schedules G–1 and G–2 upon request.

Arizona Directs pointed out that proposed § 154.313(j)(6)(ii) appears to apply to all of Statement G and, if so, it should be separately stated. Referring to Schedules G–1 and G–2, Arizona Directs states that this data is extremely useful and should continue to be provided by pipelines in their rate filings. Customers should not need to make a specific request to obtain this information. Arizona Directs states the specificity of (Statement G) and other filing requirements will serve to

eliminate much current confusion. Arizona Directs' comments have caused us to reconsider the need for this requirement. We have deleted the proposed § 154.313(j)(6)(ii) from the final rule, and have moved the subject language to the front of Statement G. As explained earlier, parties may request Schedules G–1 and G–2 from the pipeline to obtain this information.

The Industrials state that revenue from transportation services should be shown by delivery point and/or zone to enable interested parties to determine if portions of a pipeline's system have become no longer used and useful and to conduct the appropriate geographic market analyses if a pipeline argues that it should be subject to non-cost-based ratemaking. The Commission believes that these suggestions are too burdensome. These regulations are only intended to cover filing requirements for cost-based rates.

20. *Schedule G–3.* Schedule G–3 is a description of adjustments to the base period. Schedule G–3 replaces current Schedule G(e) third paragraph. Schedule G–3 requires quantification of the impact of each proposed change rather than providing only throughput and contract level differences. The Commission believes this requirement is necessary in order for a pipeline to meet its burden of proof with respect to changes to billing determinants. This schedule should reduce follow-up data requests and shorten the time required to analyze and evaluate the pipeline's proposed changes.

ANR/CIG and Great Lakes state that the proposed Schedule J–1 seeks the same information as G–3, but on a summary level. ANR/CIG suggests moving the requirements of Schedule G–3 to Schedule J–1 in order to place the supporting calculations with the required summary and enhance the use of this data.

Statement G shows throughput data while schedule J–1 shows the billing determinants used to develop rates. As explained at Schedule J–1, the two sets of data do not always coincide. Thus, a reconciliation is needed. Because the two statements serve different purposes, the Commission will not require that they be consolidated. However, Proposed Schedule G–3 has been modified and no longer refers to ''discounting.''

Columbia states that this regulation could be interpreted to require that a determination be made as to the impact of each change in the cost-of-service on each customer. The Commission clarifies that the intent is not to require a determination to be made as to the impact of each change in the cost-of-service on each customer but rather to explain and justify each adjustment.

AGD recommends that Schedule G–3 information be reported only by pipeline rate zone and by rate schedule. This proposal was not adopted as the NGA requires that the pipeline provide information necessary to meet the burden that proposed rates are just and reasonable. The required information is a necessary part of this proof.

NI-Gas supports Schedule G–3, specifically the requirement that test period adjustments to base period billing determinants be explained.

21. *Schedule G–4, At-risk Revenue.* Schedule G–4 compares revenues generated by ''at-risk'' facilities to the cost of those facilities, as specified in § 154.310.

Columbia contends that the at-risk revenue requirements of proposed Schedule G–4 are redundant and unnecessary given the present requirements for certification of new facilities and expansions. The Commission disagrees. The Commission believes that this requirement is an important one providing a single list in a rate case filing of all facilities that have an ''at-risk'' provision. This will ensure that the Commission and all parties are able to thoroughly evaluate whether the at-risk condition has been satisfied or should continue to apply to the pipeline.

NI-Gas argues this schedule should specify the reasons why the pipeline has assigned the particular revenues to the at-risk facilities, rather than to general unsubscribed system capacity. This suggestion was not adopted because Schedule G–4 requires the pipeline to provide at-risk revenues by customer by rate schedule. If parties disagree with the pipeline's assignment of revenues to specific customers or rate schedules, they may challenge the pipeline on this issue in the litigated phase of the rate proceeding. Pipelines are encouraged to address this issue at the time they file to remove their at-risk conditions.

22. *Schedule G–5, Other Revenues.* Schedule G–5 collects revenue data regarding the sale of products extracted from natural gas and other activities reported in Accounts 487–495. New requirements to quantify and explain changes to base period actuals and provide information about releases, penalties, cash outs, other imbalances, and exit fees are incorporated in this schedule. Revenues from miscellaneous services still must be reflected in Account 495. Further, pipelines must explain the circumstances relating to revenues from ''special'' types of ''X'' rate schedules. Revenues from the release of Account 858 capacity must be reflected as a credit to Account 858 in both Schedule G–5 and Schedule I–4.

Panhandle maintains that the information required by proposed Schedule G–5 should only be required of those pipelines who do not have separate tariff provisions dealing with the disposition of cashout revenues, exit fees, and penalty revenues. The Commission disagrees. The items identified by Panhandle would apply to some items included in Account 495—Other Revenues. However, Schedule G–5 also requires information on sales of products extractions, revenues from gas processed by others, incidental gasoline and oil sales, rents from gas properties and interdepartmental rents (Accounts 490–494). Not requiring the information if a pipeline has a tariff provision on a non-related item will prevent the Commission and parties from receiving an accurate portrait of the pipeline's revenues for base and test period. Further, the information on all of the accounts is necessary for auditing purposes. The requirement is not intended to modify the pipeline's existing tariff provisions on releases, cashouts, imbalances or exit fees.

23. *Statement H–1.* Columbia and INGAA states that the proposal to identify specific months when a proposed test period adjustment will occur serves no purpose in Staff's rate analysis and the company would be required to speculate an event which places upon the company an unnecessary burden with no probable benefit or purpose and should be eliminated. The Commission agrees with Columbia and INGAA's comments and has eliminated the requirement to identify the month of the proposed test period adjustment.

The Pacific Northwest Commenters suggest that if the Commission intends to deal with rate case issues expeditiously, the Commission should require a pipeline to provide more adjustment information on Operation and Maintenance Expenses, than required in the proposed Statement H–1 description.

Proposed Statement H–1 requires a detailed explanation of the basis for each adjustment with supporting workpapers. If additional information is necessary, the parties can, through a data request, obtain the information. We want to reduce the filing burden, not increase it by requiring the filing of more adjustment information.

24. *Schedule H–1(1).* AGD recommends that expenses associated with project development including engineering, administrative and legal, and market development expenses be separately itemized by project. AGD is

concerned that a pipeline may be accruing expenses over its cash expenditures. AGD recognizes that some accruals may be in order, however, it seeks data that will allow customers to test whether a pipeline is inflating its expenses in order to increase its rates. AGD recommends that the Commission require a pipeline to reconcile its base period expenses with actual cash expenditures as a part of Schedule H–1(1).

The Commission agrees with AGD's recommendation to require a pipeline to reconcile the base period expenses to actual cash expenditures. Proposed Schedule H–1 requires the disclosure and explanation of any special accruals and will be modified to require identification of all accruals which will met the AGD's recommendation.

25. *Schedules H–1(1)(c), H–1(3)(a), and H–1(3)(b).* Northwest/Williams recommends that Schedules H–1(1)(c), H–1(2)(a), and H–1(2)(b) should only be submitted by a pipeline utilizing an authorized PGA mechanism.

The Commission rejects Northwest/Williams' recommendation. Compressor fuel usage is reflected on these schedules and is used to determine the appropriate fuel retention percentage whether or not a pipeline has an authorized PGA mechanism.

Williston states that because fuel costs are recovered by a separate mechanism under a pipeline's existing tariff such costs should not be subject to review. Therefore, Schedule H–1(1)(c) should be eliminated. However, Williston contends volume data should be provided for gas balance purposes.

The Commission must review all fuel costs, whether recovered in a separate mechanism or not. Fuel usage is an important element of a pipeline's costs and though these costs may be tracked, a pipeline's tracker may require a redetermination of the base level in a rate proceeding. This data is reflected on Schedule H–1(1)(c) and therefore, can not be eliminated. Since both volumes and costs are recorded in the fuel accounts, the data is readily available. Thus, Schedule H–1(1)(c) will continue to reflect both volumes (quantities) and costs (expenses).

NGSA recommends that the following be grouped together and reconciled with purchased gas costs and other fuel reimbursement: Schedule H–1(1)(c) expenses and associated quantities applicable to Account Nos. 810, 811, and 812; Schedule H–1(3)(a) accounts used to record fuel use or gas losses; and Schedule H–1(3)(b) account used to record other gas supply expenses. NGSA maintains this modification would allow pipeline gas use to be better understood and tracked.

We agree with NGSA that these schedules could be grouped together. However, we would prefer not to mix the fuel use schedule with the system gas reimbursement and exchange gas schedules. Since both Proposed Schedules H–1(3)(a) and (b) present primarily system gas transactions, we will combine them into a new schedule incorporating the same reporting requirements. Proposed Schedule H–1(1)(c) which reflects the company-used gas will not be revised.

Columbia states with the advent of Order No. 636 and the elimination of the merchant function throughout the industry, the need to retain gas for operations is nearly universal. Because the rate that shippers pay for the gas that is ultimately retained by a pipeline varies, the rate assigned for reflecting an expense for gas used on the system in Schedules H–1 and H–1(1)(c) is not meaningful for purposes of reporting expenses in these schedules.

The Commission agrees with Columbia. However Schedule H–1(1)(c) does not require the rate assigned for reflecting an expense for gas used on the system. Only the costs (expenses) and volumes (quantities) are required.

26. *Schedules H–1(2)(a) and H–1(2)(b).* These schedules were required for pipelines with Commission approved PGA clauses in their tariffs. Since these schedules would apply to only two pipelines, there is no reason to maintain them in the regulations. The data reported on these schedules will be gathered through the data request process. Thus, Schedules H–1(2)(a) and H–1(2)(b) are deleted. All subsequent schedules will be renumbered.

27. *Schedule H–1(2) [Proposed Schedule H–1(3)].* Columbia recommends that Schedule H–1(3) be eliminated because the data is also provided in FERC Form No. 2.

The Commission disagrees with Columbia that the data reflected on Schedule H–1(2) is provided in FERC Form No. 2. The data in the FERC Form No. 2 is reported on a calendar year basis and may not reflect the base period of a proposed rate filing.

28. *Schedule H–1(2)(j) [Proposed Schedule H–1(3)(k)].* NGSA recommends that proposed Schedule H–1(3)(k) be expanded under (iv) to require a pipeline to: (1) Document and demonstrate the derivation of the allocation bases used to allocate costs among affiliated companies; (2) identify (by account number) all costs paid to, or received from affiliated companies which are included in a pipeline's cost-of-service for both the base and test periods; and (3) explain each test period adjustment to base period actuals for intercompany costs included in the cost-of-service. NGSA considers this information necessary where a pipeline has affiliated gas related companies providing non-jurisdictional services (e.g., marketing and gathering).

The Commission recognizes that NGSA's recommendations would provide valuable information on the non-jurisdictional services of a pipeline. As recommended by NGSA, the language in paragraph (iv) of Schedule H–1(2)(j) will be modified to incorporate NGSA's recommendations (1) and (2). Statement H–1 requires an explanation of all adjustments, and therefore, NGSA's recommendation (3) is not necessary.

The Pacific Northwest Commenters recommends that the Commission ensure that Schedule H–1(3)(k) or a separate schedule provides: (1) Complete and clear disclosure of all corporate overheads allocated to a pipeline; (2) a full explanation of the service provided; (3) a demonstration that such service is not duplicative of functions performed by the pipeline itself; and (4) the savings that result from sharing such services with other corporate affiliates. In addition, the Pacific Northwest Commenters recommend that where a pipeline uses an allocation formula, the pipeline must show all calculations using the formula.

Pacific Northwest Commenters's recommendations raise a valid area of concern regarding pipelines' overhead allocation. However, requiring a pipeline to provide the requested level of detail would be extremely labor intensive and it would be difficult for a pipeline to determine the savings without a costly study. We will clarify our instructions to incorporate language requiring a complete and clear disclosure of all corporate overhead allocated to the company with calculations underlying all allocation formulas.

AGD states in order to determine how joint costs are allocated between a pipeline and its affiliated entities, the Commission should clarify its regulations by declaring that a pipeline bears the burden of proving that all charges from affiliates and all overhead charges are just and reasonable, including per book amounts. AGD further recommends that a pipeline's failure to fully support charges from affiliates and overhead allocations should be grounds for summary rejection of any claimed amounts, including amounts taken from its books.

The Commission agrees with AGD and clarifies that a pipeline bears the

burden of proving that all charges from affiliates and all overhead charges are just and reasonable. However, AGD's recommendation for summary rejection of any claimed amounts would be prejudging a pipeline's case prior to a appropriate hearing before this Commission. The Commission disagrees with this recommendation.

Columbia and INGAA state that this schedule is voluminous and usually the only item of importance is overhead allocations, which are detailed on Schedule H–1(3)(f) (Account 923). They recommend that Schedule H(1)–(3)(k) should reflect only total amounts, not monthly amounts, and should reflect only major intercompany transactions. This can be accomplished by increasing the minimum dollar level reported to $500,000.

Intercompany transactions affect many operating accounts, not just Account 923. However, to the extent details of intercompany transactions affecting Account 923 are provided in Schedule H–1(2)(j), pipelines may group all such transactions together in Schedule H–1(2)(e). The Commission must scrutinize affiliate transactions, particularly those with marketing affiliates. Therefore, a high threshold is not appropriate.

Panhandle states that a complete explanation and workpapers supporting each adjustment to base period expenses are already required by instructions for Statement H–1. There is no need to report these same adjustments separately in Schedule H–1(3)(k). The proposed regulation does not provide any justification or explanation for this added burden on the filing company.

Proposed Schedule H–1(3)(k) is a workpaper reporting the details of these intercompany and interdepartmental transactions, by account. Statement H–1 reports only the actual book balances for operating expense accounts and proposed adjustments to these accounts. The account details are necessary to determine the appropriateness of the individual charges, which is only available on this schedule. Thus, the Commission will not revise Schedule H–1(2)(j) to reflect Panhandle's recommendation.

Panhandle states that the additional requirement to report charges or credits to associated or affiliated companies should not be adopted since the amounts charged to affiliates are not included in O&M Expenses for the cost-of-service to the pipeline and are irrelevant to a determination of the pipeline's rates. Panhandle asserts further that the reporting of this data will add significantly to a pipeline's burden without providing any demonstrated need for the data.

The Commission disagrees with Panhandle. Credits for charges to affiliates reduce the pipeline's operating expenses and therefore, are relevant to rate determinations. This requirement to report charges or credits to associated or affiliated companies is not a new requirement, and Panhandle has not provided a sufficient argument to change this requirement.

29. *Schedule H–1(2)(k) [Proposed Schedule H–1(3)(l)].* Panhandle states that the details of all lease payments over $500,000 are not required by Order No. 636, nor does this data appear to be required by any current articulated ratemaking policy of the Commission. Panhandle states that the Commission is imposing a significant new reporting burden without an explanation of why the information in Schedule H–1(3)(k) is needed or how it is significant. Panhandle states that the requirement should be deleted or limited to leases applicable to gas operations. The Commission clarifies that this schedule is for reporting only the leases applicable to gas operations.

30. *Schedule H–2(1).* Northwest/Williams states that the information included on Schedule H–2(1) can be found on other statements or schedules.

Williston notes that Schedule H–2(1) rarely, if ever, draws inquiry. Williston believes the information on this schedule serves no regulatory purpose and should be deleted.

The Commission's disagrees with Northwest/Williams and Williston that the information on Schedules H–2(1), H–3(3), and H–3(4) are not useful in evaluating a rate filing or serves no regulatory purpose. Schedules H–2(1) provides the reconciliation of depreciable plant to the gas plant reflected in Schedule C–1. The Commission is unaware of this information being available in another schedule.

31. *Statement H–3.* NGSA recommends that Proposed § 154.305, Tax Normalization, be incorporated into the instructions for income taxes under § 154.312, Statement H–3. The Commission agrees with NGSA and modified Statement H–3, accordingly.

32. *Schedules H–3(1)–(3).* Columbia avers that Schedules H–3(1) through (3) are rarely relied upon and should be eliminated and asks that the Commission clarify the exact intent of this schedule with respect to the proposed changes to § 154.306(d)(2).

INGAA states that Schedule H–3(1) is seldom used in rate analysis and should be deleted from the filing requirements. Columbia and INGAA states that virtually all interstate gas companies utilize ''full normalization'' concept in computing income taxes, therefore no differences exist and Schedule H–3(2) should be deleted from the filing.

Northwest/William states that Schedule H–3(3) is not useful in evaluating a rate filing. Williston notes that Schedule H–3(3) rarely, if ever, draw inquiry. Williston believes the information on this schedule serve no regulatory purpose and should be deleted.

Schedules H–3(1) was intended to report the reconciliation of book and taxable net income for a pipeline. The data as reported rarely reflect the same time period as the base period of the rate filing. Thus, we find the information has limited use in the overall analysis by our staff. Therefore, we have deleted Schedule H–3(1).

Proposed Schedule H–3(2) had required reporting the differences between book and tax depreciation on a straight-line basis and the excess of liberalized depreciation for tax purposes. As noted by INGAA, most pipelines utilize the ''full normalization'' concept in computing income taxes, therefore no differences exist. Thus, the Commission will delete Schedule H–3(2) in the final rule.

Proposed Schedule H–3(3) (New Schedule H–3(1)) reflects the state income taxes paid during the current and/or previous year covered by the test period. This is the only schedule of a rate filing where state income taxes paid by state are reflected. A thorough evaluation of the state tax rates, allocation factors, etc. is necessary to complete our analysis of a rate filing.

33. *Schedule H–3(4).* Columbia recommends that the regulatory asset or liability, net of deferred tax amounts, be included in a reconciliation of Schedule H–3(4) or a workpaper be established to support the calculation of the regulatory asset or liability on Schedule B–2.

The Commission agrees with Columbia that the regulatory asset or liability net of deferred tax amounts should be included in a reconciliation of Schedule H–3(4) or as a workpaper to support the calculation if included on Schedule B–2, if recovery of these costs are included in the computation of rate base. However, the gross amounts should also be included.

Williston notes that Schedule H–3(4) rarely, if ever, draws inquiry. Williston believes the information on this schedule serves no regulatory purpose and should be deleted.

Schedule H–3(4) presents accumulated deferred income taxes for the latest reporting period reflected on Statement B, Rate Base. The information

reported on this schedule is vital for the determination of a pipeline's appropriate rate base level and will not be deleted. Proposed Schedule H–3(4) is renumbered Schedule H–3(2).

34. *Schedule H–4.* INGAA states that the value of identifying the amounts expended or accrued during the rate period would not be comparative. This is so because there is usually an overlapping of a payment year and the reported year in a rate filing.

Proposed Schedule H–4, except for editorial revisions, is identical to the prior regulations. INGAA's arguments have not persuaded us that there is no longer a need for this information to be reported. The amounts reflected on this schedule provide the Commission with a beginning point in the overall analysis of other taxes by furnishing the expended and accrued taxes for the base period.

35. *Schedule I–1, Functionalization of Cost-of-Service.* Schedule I–1 replaces current Statement I (Allocation of overall cost-of-service). The information on jurisdictional and nonjurisdictional sales allocation is eliminated as no longer needed.

Schedule I–1(c) requires a pipeline that maintains its records by zones and proposes a zone rate methodology to provide functionalized costs for each zone. NGSA suggests that Schedule I–1 (c) should only be required for pipelines which separate their cost-of-service by zones. This is already the case. Section 154.310 requires a cost-of-service by zone only if a pipeline maintains records of costs by zones and proposes a zone rate methodology based on these costs. (See the discussion of § 154.310.)

NGSA also states that on Schedule I–1 (d), pipelines should be required to show the basis for allocating all costs (A&G, working capital) among functions. This showing will be required by the new regulations as it is required by the current regulations.

36. *Schedules I–2(i) and (ii).* Schedules I–2(i) and (ii) replace present Schedule I–2. Schedule I–2(iii) requires an explanation of all changes in classification from the pipeline's currently effective rates. This information is required by current Schedule K–2, but is often difficult to distinguish from other information.

INGAA, ANR, and CIG state that in Schedule I–2, classification of administrative and general expenses by account serves no useful purpose in rate analysis. Columbia notes that the classification of A&G costs by account is not useful if the pipeline allocates on a direct labor basis because the classification is fixed and recoveries occur through the demand charge. The Commission disagrees. A&G costs by account, are used to determine whether costs should be allocated by plant or direct labor under the Kansas-Nebraska method. Accordingly, the proposed requirement to provide A&G costs by account has not been removed.

NGSA states that Schedule I–2 should require the classification of revenue credits by account. Revenue credits generally include Accounts 490–495. The amounts reflected in several of these accounts (such as Account 492–Incidental Gasoline and Oil Sales) would ordinarily be classified as variable costs. However, the revenues from Account 493–Rent From Gas Property would be classified as a fixed cost. Thus, a breakout of the classification of revenue credits by account is needed. The Commission modified proposed Schedule I–2 accordingly.

37. *Schedule I–3, Allocation of Cost-of-Service.* Schedule I–3 replaces current Schedule J. Schedule I–3(ii) bridges the gap between the cost-of-service and rates. The information required is now filed under current Schedule K–1. Schedule I–3(ii) follows a more logical order. It also recognizes that there are often several allocation steps before rates are actually calculated. Schedule I–3(iii) requires the formulae and allocation determinants. Schedule I–3(iv) requires an explanation of any changes from the current methodology, as is required under current Schedule K–2.

38. *Schedule I–4, Transmission and Compression of Gas by Others (Account 858).* Schedule I–4 replaces current Schedule I–4. The revisions reflect current operations. Schedule I–4(i) requires information on the expiration date of each contract with an upstream pipeline. This will provide the Commission with information about the status of contracts. Schedule I–4(iii) requires the pipeline to report monthly usage volumes and monthly costs. Schedule I–4(v) requires minimal information about capacity release. It does not request any information on the identity of the contracting party. The information on revenues for releases is necessary to ensure that the pipelines' customers that pay the Account 858 costs receive a credit for revenue from capacity releases made by the pipeline of this upstream capacity.

AGD states that Schedule I–4 should require the reporting of rates that are in effect subject to refund and a statement of last approved rates. AGD avers that the additional information will notify parties of any refund contingencies reflected in the pipeline's Account 858 costs and will provide a basis for the Commission to order the flowthrough of refunds to customers. The Commission declines to add this administrative burden. Such information is not generally required for a rate case.

Northwest/Williams states that Schedule I–4 is no longer needed in an Order No. 636 environment. The Commission disagrees. Several pipelines retain capacity on upstream pipelines for operational purposes. This statement is needed to ensure that the level of such Account 858 costs is appropriate. We note that pipelines that do not retain upstream capacity for operational purposes do not need to file this information.

The Industrial Groups note that proposed Schedule I–4(d) required monthly ''revenues'' but should refer to ''costs.'' The regulation has been corrected.

39. *Schedule I–5.* Current Schedule I–5 requiring information on meters, is deleted.

The NOPR had proposed a new Schedule I–5, Three-day peak deliveries, to replace current Schedule I–6. However, in light of comments and reconsideration, the Commission has determined that the information on 3-day peak deliveries is no longer generally useful in a rate case.[68]

Northwest/Williams notes that, in a restructured environment, contract demand or MDQs are the primary basis for the design of firm transportation reservation charge, therefore the average 3-day peak information is not required for rate design for many pipelines. Northwest/Williams is generally correct; however, if a pipeline allocates costs on the basis of 3-day peaks, it must provide the basis for such allocation in Schedule I–3(c).

40. *Schedule I–5, Gas Balance.* Schedule I–5 replaces current Schedule I–7 with the deletion of that schedule's last sentence.[69]

Williston commented that this schedule should be deleted because it does not provide useful information for the design of base rates and requires information also required in FERC Form No. 2. Williston is mistaken. This schedule shows the pipeline's actual and projected physical operations. Such information assists the Commission and parties in evaluating whether the pipeline's rate design is appropriate for its operating characteristics. For example, if transportation throughput during the winter is significantly higher than during the summer, seasonal rates

[68] Pipelines with non-jurisdictional sales must provide this data in Statement J.

[69] This schedule appeared in the NOPR as proposed Schedule I–6.

may be appropriate. Further, FERC Form No. 2 does not provide test period data.

41. *Statement J, Comparison and Reconciliation of Estimated Revenues With Cost-of-service.* Statement J replaces current Statement K. Statement J will provide the same type of comparison as the current schedule, except that Schedule J specifically requires that Schedule G–2 must be compared to Statement I. Statement J also requires that surcharges be reflected and recognizes that they are not derived from the cost-of-service, but are jurisdictional revenues. Also, discounting adjustments are provided in this statement.

42. *Schedule J–1, Summary of Billing Determinants.* Schedule J–1 will help correlate the volumes in Schedule G to the volumes used to develop rates.

ANR and CIG state that this schedule seeks the same information as Schedule G–3, but on a summary level, therefore, the requirements of Schedule G–3 should also apply to Schedule J–1 so that the supporting calculations are provided with the summary. Williston states that this schedule duplicates existing information in Schedule G and should be deleted. The Commission disagrees. Schedule G–3 provides detailed information for each proposed adjustment to actual base period billing determinants while the information in Schedule J–1 is summarized for rate design purposes. Each schedule is retained because each serves a different purpose.

Columbia states that the requirement to include surcharges as part of the revenues in Schedule G needlessly complicates the reconciliation process. Columbia advocates ignoring surcharges of limited duration or those subject to intermittent changes.

The Commission recognizes that surcharges are not part of the cost-of-service; however, surcharge information enables the Commission and parties to verify whether discounts are attributed to base rates or surcharges consistent with § 154.109.

AGD states that requirements should be supplemented to facilitate reconciliation calculations. AGD recommends requiring the pipeline to include a summary by rate schedule and by zone of billing determinant adjustments provided in Statement G. The Commission disagrees. As stated above, all reconciliations to billing determinants in the design of rates, including discounting adjustments, must take place in Statement J, not Statement G.

43. *Schedule J–2, Derivation of Rates.* Schedule J–2 replaces current Schedule K–1. Schedule J–2 more clearly specifies what information is required and requires that costs and billing determinants be cross-referenced.

44. *Schedule J–2(iii).* Schedule J–2(iii) requires the same information as current Schedule K–2.

Pacific Northwest Commenters states that the Commission should expand the requirements to include a full narrative of the method used and step-by step calculations for each rate component of each rate. The Commission notes that such narratives are already required by Schedule G–3 and § 154.201(b)(2).

Columbia seeks clarification that the rate component referenced relates to a reservation/usage distinction and not a distinction based on the individual components of the cost-of-service. Columbia's interpretation is correct.

NI-Gas suggests that pipelines be required to include schedules with Statement I that specify the impact of each proposed change in functionalization, classification, allocation or rate design. NI-Gas also suggests that the explanation of changes in rate derivation required by Schedule J–2 provide the impact on shippers of each change. Such impacts and explanations are not required under the current regulations and would be too burdensome as a generally applicable requirement. Section 154.201 (b)(2) requires a pipeline to support rate changes with step-by-step calculations and a written narrative to allow the parties to duplicate the pipeline's calculations. Section 154.313, Statements I and J, set out guidelines on how a pipeline should present its rate case. These requirements should provide sufficient information for a party to compute the impact of each change. Moreover, as the need arises, additional information may be provided through discovery at a hearing.

The Industrial Groups state that this schedule should incorporate the Schedule K–2 requirements verbatim. The Commission did not adopt this suggestion because such requirements are found in § 154.201(b)(2) and so, no change is necessary.

45. *Statement P.* AGD, APGA, Consumers Power, Brooklyn Union, IPAA, JMC, Michigan, Pacific Northwest Commenters, Columbia Distribution, LDC Caucus, NDG, SoCal, and UDC support the initial filing of Statement P as part of the pipeline's rate filing. Many of these commenters note that Statement P is the key element in understanding a pipeline's rate filing. The availability of a properly prepared Statement P will help the pipeline's customers identify the real issues presented by the rate filing in time for the issues to be raised in initial interventions and pleadings. In addition, by requiring that Statement P be filed with the rate case, the number of protests should be reduced, since intervenors will only have to file protests when warranted, rather than protectively. IPAA states that filing Statement P with the rate case will allow for more expeditious processing of rate cases and will shorten the time period during which shippers can be held hostage to unjust and unreasonable rates collected subject to refund. The LDC Caucus notes that many state Public Utility Commissions (PUCs) require Local Distribution Companies (LDCs) to file testimony concurrently with their rate cases. Finally, Brooklyn Union notes in support of the proposed Statement P requirement, that the Commission's regulations require electric utilities to file testimony with rate increase filings.

ANR/CIG, INGAA, NGT and Panhandle suggest, as an alternative, that a two-phase filing of Statement P be considered. In Phase I, pipelines would file testimony with the rate case concerning the rate case issues for which refunds are not a remedy. In Phase II, 15 or 30 days later, the pipeline would file remaining testimony on the ''boiler plate'' issues of cost-of-service, billing-determinants levels, rate base, etc.

Columbia questions whether filing Statement P with the rate case filing has any significant benefit or purpose. Columbia supports maintaining the old rule (15-day lag) with respect to cost-of-service and rate testimony, but would not object to the new rule with respect to issues where rate refunds are not an adequate remedy.

KNI contends that the extra 15 days presently allowed for filing Statement P provides time to develop more comprehensive and detailed testimony than would otherwise be produced if Statement P had to be submitted concurrently with all other schedules. KNI contends that more ''polished'' testimony is likely to reduce discovery requests.

MRT submits that requiring testimony to be filed concurrently with a rate case would create an enormous and unnecessary burden on pipelines. If, however, the Commission requires Statement P to be filed concurrently, then MRT proposes that the Commission take additional actions to reduce the burden. MRT requests that the Commission amend § 154.304(a)(1) to lengthen the time from the last day of the base period to the filing date from 4 months to 5 months. Alternatively, MRT requests that pipelines not be required to file all schedules and

statements with the rate case. Rather, schedules ''which are not essential to the Commission's development of a suspension order'' should be delayed until 15 days after the initial filing.

Panhandle is concerned about the requirement that a pipeline must be prepared to sustain its burden of proof on the proposed changes solely on the basis of the prepared testimony submitted with its initial rate case filing. Panhandle states that this requirement could be interpreted to require a pipeline to anticipate and address every issue which may be raised in the rate case. In addition, Panhandle is concerned about the proposed regulation could be interpreted to preclude a pipeline from filing either supplemental direct or rebuttal testimony to address issues raised subsequent to the rate filing. Panhandle states that if the proposed regulations on Statement P are adopted, they should be clarified to make it clear that the pipeline has the right to file both supplemental and rebuttal testimony. Panhandle also states that if it is required to make its case-in-chief solely on the Statement P evidence, then the Staff and intervenors should not be allowed to use actual information for the test period as the basis of their testimony to show that the pipeline's estimates should be rejected and substituted with ''better'' actual numbers.

A filing pipeline has the statutory burden to support its rates as just and reasonable. The Commission emphasizes that it expects pipelines to make their case-in-chief at the outset of the case and not rely on supplemental and rebuttal testimony for that purpose. However, as a proceeding progresses through the hearing process, the need may arise for the pipeline to supplement its prepared testimony and to present testimony in rebuttal to the adverse positions of others.

m. *Section 154.313 Schedules for Minor Rate Changes.* The Commission intends that the filing burden for minor rate increases and rate decreases be less than that for other rate changes.[70] Minor rate increases usually relate to a few schedules and are designed to bring such schedules into harmony with general tariff policy, to eliminate inequities, and to achieve other formal adjustments, in cases where any increase in revenue is subordinate to some other purpose. They include changes that are not designed to provide general revenue increases such as to offset increased costs or otherwise achieve a fair return on the overall jurisdictional business. Increases in rates or charges which, for the test period, do not exceed the smaller of $1,000,000 or 5 percent of the revenues under the jurisdiction of the Commission will be considered minor. A change in rate level, no part of which directly or indirectly results in any increased charge to a customer or class of customers, will also be considered a minor rate change.

MoPSC recommends that the specific words ''rate decrease'' be added to § 154.313, to clarify what requirements are applicable for rate decrease applications. In addition, MoPSC believes the threshold definition for minor rate changes is too broad. MoPSC recommends a minor rate decrease be redefined as ''a change which does not increase a company's revenues by $1,000,000 and does not directly or indirectly increase a rate or charge to any customer by more than 2%''.

Comments concerning the threshold definition were considered. However, in light of the probable burden of reporting the rate impact to specific customers the threshold was not revised.

NDG states that while the net impact of the ''minor'' change on the pipeline's customers in aggregate may be minimal, the impact on individual customers may be significant. NDG proposes that the standard for what constitutes a ''minor'' rate change be based on the magnitude of individual customer specific impacts resulting from the filing. Thus any rate change which increases a single customer's costs by more than the lesser of $250,000 or 10% of the amount previously being charged for the effected services, should be considered to be a major rate change and should be required to be supported by the full filing requirements.

The Commission notes that the requirements for rate decrease filings should be clarified. These filings must meet the same criteria as rate increase filings, i.e., increases or decrease in rates or charges which, for the test period, do not exceed the smaller of $1,000,000 or 5 percent of the revenues under the jurisdiction of the Commission will be considered minor.

Northern Border states that proposed §§ 154.301, 154.311, and 154.312 appear to have overlooked the ratemaking circumstances for pipelines utilizing a cost-of-service form of tariff. Northern Border believes § 154.313 (minor increases) is designed for stated rate tariffs and would not be appropriate for the cost-of-service form of tariff. Therefore, Northern Border recommends that the Commission reinstate Statement N for pipelines with the cost-of-service form of tariff.

With regards to Northern Border's comments recommending the reinstatement of Statement N for pipeline with the cost-of- service form of tariffs, the Commission understands the particular problems relating to this pipeline. Because of the nature of cost-of-service tariffs, Northern Border would only file under § 154.314 when changes in approved rate of return or services are proposed. Any other filings to recoup costs are considered limited section 4 filings and would not be affected by this section. Cost-of-service tariff holders filings under this section must request a waiver of the test period adjustments and updating, since these pipelines are required to recover only actual costs, not adjusted costs. Therefore, the Commission will not provide any specific revisions for cost-of-service tariff holders.

n. *Section 154.314 Other Support for a Filing.* Section 154.314 provides that any company filing for a rate change is responsible for preparing prior to filing, and maintaining, workpapers sufficient to support the filing.[71] In addition to the workpapers, the NOPR provided that certain other material, related to the test period, must be provided, such as copies of monthly financial reports prepared for management purposes, and copies of accounting analyses of balance sheet accounts.

INGAA is opposed to the submission of financial reports prepared for management and the accounting analysis of such financial statements. INGAA states that this information is sensitive and is not generally provided to the general public.

The requirement to provide this other material to the Commission upon request has been removed from the revised regulation. This information can be obtained by any party through discovery after a rate case has been set for hearing.

5. Subpart E—Limited Rate Changes

a. *Section 154.401 RD&D Expenditures.* Section 154.401 replaces current § 154.38(d)(5).

b. *Section 154.402 ACA Expenditures.* Section 154.402 replaces current § 154.38(d)(6).

c. *Section 154.403 Periodic Rate Adjustments.* New § 154.403 governs the passthrough, on a periodic basis, of a single cost item or revenue item not otherwise covered by subpart E, such as remaining purchased gas adjustment mechanisms, fuel loss and unaccounted-

[70] This regulation appeared in the NOPR as § 154.314.

[71] This regulation appeared in the NOPR as § 154.315.

for gas, and transition cost filings. These new regulations are consistent with current Commission policy governing these filings and generally reflect currently effective tariff provisions.

The requirements of this section are subdivided into two parts. The initial part sets forth the minimum general requirements the pipeline must meet if it proposes, or the Commission requires, a periodic passthrough mechanism in the future. Significant among the new requirements of this section is the requirement to include a sample calculation in the tariff of the periodic rate change methodology. This sample calculation will assist the Commission and interested parties in understanding the proposal and ensure that the tariff language adequately explains the calculation steps. Further, it will provide a template for future filings under the tariff provision.

The general requirements portion of § 154.403 also include the requirement that all periodic rate change mechanisms include a description of the timing and methodology of the adjustments, including a description of all mathematical calculations. No steps should be excluded. Given the numbers from the source documents, anyone reading the tariff should be able to arrive at the rate component by following the steps described in the tariff.

The second portion of § 154.403 addresses the information to be submitted with each filing. The filings should contain workpapers which show the calculations described by the tariff. The Commission intends to collect sufficient supporting calculations to show a clear path from the source data to the rate component.

Pacific Northwest Commenters generally support the proposed rules governing filings to track specific cost items where permitted. However, they believe the rules should be clarified to provide that (1) the general terms and conditions for a tracker must be approved and effective before a rate change is filed, and (2) any filing of a rate change under a tracker should include a summary table showing the impact on customers.

The proposed regulation was not modified as Pacific Northwest Commenters suggest. Commonly, a cost tracker is adopted during a general rate proceeding where the tracker can be established prior to its use. The parties subject to the tracker have ample opportunity to explore issues related to the tracker in the rate proceeding. Further, there should be sufficient data available in the filing, tariff, and service agreement to permit each customer to determine the impact of the tracker adjustments. No customer impact statement will be required.

CNG requests clarification to assure that these new requirements will not be retroactively applied to existing tariff provisions. The Commission affirms that any tariff provisions which have been approved will not be reviewed anew to determine their compliance with these regulations. Any future filings under currently effective tariff provisions must comply with § 154.403(d), however.

INGAA wants the Commission to expand the items tracked (allowed for periodic rate adjustments) to include costs incurred to comply with governmental regulations under federal and state environmental and safety laws. Pipelines should be afforded the option of a limited Section 4 filing or a deferred account to recover costs associated with compliance with environmental and safety regulations without incurring the costs of filing a full rate case.

KNI would also like to see recovery of Department of Transportation (D.O.T.) pipeline user fees via a periodic rate adjustment (tracker). D.O.T. user fees are presently recovered as part of the cost-of-service reflected in the demand charge; however, these fees are similar to ACA and GRI charges and should be similarly tracked and recovered through a surcharge. KNI argues that, as it stands now, any changes in D.O.T. fees can only be reflected in rates by making a general rate case filing. KNI maintains that use of a tracker would avoid the need for a rate case filing to recover the significant increase in these federal taxes currently under consideration.

The Commission is not adopting regulations for each different type of cost or revenue tracked. By adopting a generally applicable provision, the Commission avoids having to modify its regulations every time a new cost is tracked or ceases being tracked.

The Commission is adopting regulations to be generally applicable. The specific types of costs or revenues subject to these regulations are not an issue for this rulemaking. Instead, pipelines may propose trackers for costs incurred to comply with governmental regulations under federal and state environmental and safety laws, such as D.O.T. user fees, in individual proceedings.

NGSA states that, for clarity and to ensure that the filings contain the proper information necessary to evaluate the proposed changes, the regulations should be written separately for the types of filings to which they apply (i.e., fuel filings, GSR filings, Account 858 filings, IT revenue credit filings, etc.). NGSA suggests the following items be required with filings made under this section:

a. Reconciliation information for the past period which compares the volumes and revenues actually recovered to the volumes and costs used to design the rates previously in effect, with discounted transactions separately identified, and showing any past period underrecovery to be included in the new rate;

b. Actual data on costs incurred since the last filing, compared to the costs on which the previous rates were based;

c. Derivation of any discounting adjustment included in the proposed rates, citing the authority under which such adjustment is being made;

d. Citations to data sources and approval order for data used which is derived elsewhere; and

e. Requirement that costs, volumes, allocation and rate design be shown by zone of receipt/zone of delivery or other category used to charge rates, where appropriate.

NGSA suggests several specific modifications to the proposed regulations in § 154.403. Section 154.403(c) directs the pipeline to include in its tariff information about the mechanism which will be used to adjust the pipeline's rates. The Commission anticipates that all the information NGSA seeks will be available through the tariff or in the filing. No modification to the regulations is required.

Northern Border recommends eliminating the requirement that a company that recovers fuel use and unaccounted-for gas in-kind state its reimbursement percentages in its tariff. Northern Border prefers that pipelines be allowed to show such changes by posting on the EBBs, in lieu of numerous and untimely tariff filings. Northern Border maintains that due to the operation of its system, percentages change monthly or more often, and changes are computed and implemented within one week. Northern Border currently uses its EBB in such a manner, and it is considered an efficient and accepted practice by its customers.

By far, the most common practice among pipelines is to state their fuel reimbursement percentages in the tariffs. The Commission is adopting the regulation to reflect this common practice. The manner in which Northern Border posts its fuel reimbursement percentages has already been approved by the Commission and the Commission does not intend to apply this regulation to pipelines with approved tariffs that provide otherwise.

Northwest/Williams believes that the requirement that tariffs contain step-by-step descriptions of the amounts

calculated and of the flowthrough mechanism is burdensome because it will require many pages of text and will be difficult to predict every possible scenario that might impact the calculations. Northwest/Williams would like to see the step-by-step descriptions eliminated and a general description included in the tariff instead, with any further explanations handled through data requests or informal technical conferences. Williston also requests deletion of the step-by-step description requirement because it is unnecessary and will clutter the tariff making it inflexible and potentially unworkable.

Columbia argues that a clarification is necessary because, as drafted, the regulations could be read to require that a pipeline incorporate into each rate schedule ''a sample calculation in the tariff provision governing the periodic rate change methodology.'' Similarly, El Paso argues that no sample mathematical calculations should be required in the tariff. El Paso states it is unclear what the Commission wants included in the tariffs, but El Paso opposes inclusion of a sample calculation because it would duplicate information already provided in the workpapers of each filing and use of the Commission's software does not allow for the use of special characters, resulting in a difficult and burdensome task which will reduce the reader's ability to understand the information provided.

Individual shippers that are asked to pay a rate have a right to know how the rate is derived without having to seek basic information about the rate derivation through data requests and technical conferences. Requiring the tariff to contain a clear statement of how a rate is calculated is not unreasonable. As we stated in the preamble to the NOPR, these new regulations are consistent with current Commission policy and generally reflect currently effective tariff provisions that include a general description of the calculations.

Columbia and El Paso are correct: the preamble states that a sample calculation will be included in the tariff. However, the regulations do not reflect this provision. In this case, the preamble is in error. No further action is required.

NI-Gas finds the increased specificity in periodic rate adjustments is an improvement over existing practice. NI-Gas maintains, however, that shippers subject to pipeline trackers should be able to argue that they are entitled to refunds from pre-tracker periods. Otherwise, pipelines will have a strong incentive to allocate refunds to pre-tracker periods, while agreeing to higher rates for tracked periods. As a general matter, NI-Gas asserts that pipeline shippers do not have the means to aggressively participate in all proceedings which give rise to or affect tracked costs.

The section to which NI-Gas refers, § 154.403(d)(4), is not intended to apply to refunds due as a result of a Commission determination that increased rates or charges are not justified or to refunds approved by the Commission as part of a settlement. The reference to the return of revenues in this section refers to revenues subject to a revenue crediting mechanism approved under this section. The section underscores the precept that the effect of any new rate recovery mechanism is prospective not retroactive.

Finally, Foothills filed comments to state that it does not oppose the deletion of §§ 154.201 through 154.213 of the regulations with regard to the tracker mechanism that allows pipeline shippers to track ANGTS charges in their own rates. Foothills states these regulations are unnecessary in the post-Order No. 636 period because interstate pipelines are no longer in the merchant business and no longer hold capacity on third-party pipelines. Foothills emphasizes its continued reliance, however, on the Commission's unwavering support of the ANGTS project. As stated previously, the Commission continues to support the ANGST project.

6. Subpart F—Refunds and Reports

a. *Section 154.501 Refunds.* Section 154.501 replaces current § 154.67(c). The refund carrying charge rule, currently § 154.38(d)(4), applies to all refunds. The new section reflects current Commission policy.

The Commission has added a requirement for pipeline refunds to be made within 60 days of the order date to ensure refunds are disbursed on a timely basis. Refunds received by the pipeline must be disbursed within 30 days of receipt. This period of time should be adequate to disburse refunds.

Section 154.501(c) is added to reflect current Commission policy with respect to supplier refunds which apply to the period during which the company had a purchased gas adjustment clause in its tariff. Instructions regarding the contents of a refund report are added to provide additional guidance.

INGAA argues that the Commission's refund policy should not obligate pipelines to refund amounts that have not been collected in full. Section 154.501(a)(1) sets a 60-day refund period. This provision may require pipelines to pay out refunds before surcharges recover the full amount of the refunds. INGAA suggests removing the 60-day limit or specifying that refunds will only be paid out to the extent the amounts have been collected in full.

INGAA also urges the Commission to delete the proposal in § 154.501(a)(2) that any natural gas company must refund to its jurisdictional customers the jurisdictional portion of any refund it receives within 30 days of receipt. In the alternative, INGAA suggests allowing pipelines a reciprocal right to surcharge jurisdictional customers, if they are subject to paying a higher rate to upstream pipelines, within the 30 days.

ANR/CIG argue that the proposed language mandates the institution of a one-way tracker and imposes the obligation on a pipeline to pass through refunds to customers in 30 days, but does not provide the pipeline with a reciprocal right to begin surcharging jurisdictional customers within 30 days if the pipeline is subjected to paying a higher rate to another pipeline for services. ANR/CIG states that this should only be imposed if it tracks both the refunds received by the pipeline and the cost increases incurred by the pipeline for particular services.

Panhandle argues that this section should be limited to refunds of costs tracked in the pipeline's rates or for which the pipeline has a pre-existing refund obligation. Otherwise, Panhandle states, the section may be interpreted to require vendor refunds, or rebates from manufacturers or suppliers when no such refunds are required under the law. Panhandle proposes the following revision to § 154.501(a)(2):

> ''Any natural gas company must refund to its jurisdictional customers the jurisdictional portion of any refund it receives which is required by prior Commission order to be flowed through to its jurisdictional customers or is an amount previously included in a tracker filing and charged and collected from jurisdictional customers within thirty days of receipt.''

Williston opposes the 30-day time period, arguing that it may not be enough time within which to issue refunds. Williston states that the time period should be the same as in § 154.501(a), 60 days. Columbia also recommends that the 30-day period be extended to ''within 60 days of receipt'' to allow for refunds received shortly before bills are issued to be disbursed as billing credits with the second billing after receipt of the refund.

CNG urges the Commission to revise the proposal to provide that each pipeline's current tariff should control

the timing and method of flowing through refunds from other pipelines.

Northwest suggests adding language regarding normalization of income tax timing differences in paragraph (d) similar to that proposed in § 154.403(c)(7).

AGD recommends that the Commission eliminate the 30-day lag in the pipeline's obligation to submit its report explaining its refund of excessive charges. AGD states that the refund report should be in hand before the refund check is cashed as the cashing of a check may be treated legally as full compensation by the pipeline. Pacific Northwest Commenters recommend refund reports be served on all customers, interested state commissions, and designated representatives. Williston asserts a provision should be added to § 154.501(e) providing that each shipper will only be provided with its applicable portion of the refund report in order to ensure that confidentiality of commercially sensitive information is maintained.

Williston argues that refunds should be required only upon issuance of a final Commission order. Williston states that, when a pipeline requests rehearing or circuit court review of a Commission order, refunds should be deferred until after the final order to avoid the necessity for further refunds or rebilling of prematurely refunded amounts.

Williston also suggests that §§ 154.501(d)(1) and (2) be deleted from the regulations as no they are no longer necessary. Pacific Northwest Commenters urge the Commission to add a new § 154.501(a)(3) requiring that a pipeline offer its customers the option of electronic transfer of the refund amount on the date refunds are made.

In response to INGAA's request, the Commission clarifies that a pipeline is not required to pay out a refund until it recovers the full amount of the refund through its rates.

The Commission agrees with Panhandle that the language of § 154.501(a)(2) should be clarified. It was not the Commission's intention to require refunds of vendor refunds or manufacturer rebates. Rather, the section is intended to apply to refunds required by the Commission and passed through by the pipeline to its customers.

Several commenters seek a different time period for disbursement of refunds the pipeline has received. The Commission will adopt a single standard which will be generally applicable. For refunds received from an upstream supplier, thirty days should not be unduly burdensome. However, since many pipelines have currently effective tariff provisions providing for a different time period or passthrough by a deferred account surcharge, the regulatory text will be modified to grandfather these provisions. This modification will result in the least disruption.

The Commission disagrees with the position that § 154.501(a)(2) represents a one-way tracker. The refunds which are the subject of this section are required to be passed through by Commission order as clarified above. Cost increases must be filed for by the pipeline before being passed through according to section 4 of the NGA. If the pipeline wishes to institute a tracker, it must file tariff provisions with the Commission to do so.

The language regarding normalization of income tax timing differences found in § 154.403(c)(7) is inappropriate here. Refunds do not give rise to a tax timing difference which would affect carrying charge calculations.

The Commission generally has provided for a 30-day time period between the date when refunds are ordered and the date when and the report of the refund must be filed.[72] Thirty days is a reasonable period to provide the report. The Commission reviews refund reports for accuracy. If as a result of its review, the Commission finds that a pipeline has failed to accurately compute a refund, the pipeline will be directed to correct the deficiency.

Two commenters address the issue of service. The regulations have been revised such that all parties that have standing requests for full refund report service will receive a copy of a pipeline's entire refund report. Otherwise, parties receiving the refund will receive an abbreviated form of the refund report.

The Commission will not adopt Williston's suggestion. If a pipeline believes there is confidential material in a particular refund report, the pipeline may request that the Commission treat all or part of the report as confidential pursuant to § 388.112 of the Commission's regulations.

The date for disbursement of the refund whether after a final Commission order or otherwise is properly the subject of the proceeding in which the refund obligation arises. The Commission will not adopt language in the regulations mandating a specific date.

Williston suggests removing the portion of the proposed regulations which govern the interest level used to calculate interest on refunds pre-dating September 30, 1979. Upon further reflection, the Commission believes the possibility of requiring refunds dating back to this time period are remote. These sections of the proposed regulations have been removed.

The Commission notes that several pipelines have provisions in their tariffs offering their customers the option of receiving refunds by electronic transfer.[73] At this point, the Commission prefers that the pipelines and their customers work out procedures for electronic funds transfers where appropriate. For this reason, the regulations will not mandate electronic funds transfers.

b. *Section 154.502 Reports.* New § 154.502 requires that tariffs include information about reports required by the Commission.

Arizona Directs approve of the provision as a convenient reference point for a description of all reports required by the Commission to be filed by the pipeline on a periodic basis. They recommend, as a modification, that pipelines be required to state in their tariffs the name, address, and phone number of the company representative who should be contacted if copies of a particular report are desired.

INGAA states that the requirement to include descriptions of all filed reports in pipelines' tariffs is redundant and should be deleted. The Commission already publishes a directory of all reports that interstate pipeline companies are required to file. INGAA states that this regulation is too broad and will lead to a significant increase in the size of tariff filings because the reports could conceivably include periodic, yet short-term, reports that are required for environmental compliance during a certificate proceeding. National Fuel argues that this provision should either be eliminated or its scope narrowed to reports arising out of litigated or settled rate proceedings.

INGAA misinterprets the scope of this regulation. The regulation is not intended to include a list of reporting requirements already set forth in the Commission's regulations. This section of the regulations applies to periodic reports required by a Commission order or a settlement in a proceeding initiated under part 154 or part 284. For example, during restructuring several pipelines

[72] See, e.g., Trunkline Gas Company, 62 FERC ¶ 61,199 (1992), and Florida Gas Transmission Co., 71 FERC ¶ 61.363 (1995).

[73] See, *e.g.*, ANR Pipeline Co., Original Sheet No. 146, Second Revised Volume No. 1, Columbia Gas Transmission Corp., Second Substitute Original Sheet No. 331, Second Revised Volume No. 1, and Panhandle Eastern Pipe Line Co., Original Sheet No. 287, First Revised Volume No. 1.

were required to submit reports when they issued an operational flow order. The regulations are clarified to more clearly reflect the scope of this requirement.

The information on the title page of the tariff contains the name, address, and, as modified, the telephone number of an individual to whom communications concerning the tariff should be directed. This individual should be able to respond to inquiries regarding reports filed consistent with this section of the regulations.

7. Subpart G—Other Tariff Changes

a. *Section 154.601 Change in Executed Service Agreement.* Section 154.601 replaces current § 154.63(d)(2). The section concerns executed service agreements ''on file with the Commission'' and does not refer to ''well names.''

b. *Section 154.602 Cancellation or Termination of a Tariff, Executed Service Agreement or Part Thereof.* Section 154.602 replaces current § 154.64. The section does not require sales information. It does require a list of the affected customers and the contract demand under the service to be canceled.

INGAA and Panhandle object to the new requirement that a natural gas company must provide notice to the Commission at least 30 days prior to the effective date of a proposed cancellation or termination of an effective tariff or contract because these transactions have been pre-granted abandonment under each pipeline's blanket certificate. In the alternative, Panhandle seeks clarification of this provision.

This requirement is not new but is a revised version of the current requirement at § 154.64. It only applies to (1) tariff sheets on file with the Commission, and (2) service agreements that are on file with the Commission and not subject to pre-granted abandonment. Except for the reduction in filing requirements, the Commission does not anticipate any change in the operation of this provision.

c. *Section 154.603 Adopting of a Tariff by a Successor.* Section 154.603 replaces current § 154.65. The section concerns adopted tariffs or contracts ''on file with the Commission'' as opposed to any tariff or contracts.

C. Comments Requesting Further Changes

Most suggestions for additional regulations are discussed with the regulation they would logically follow or supplement. Several additional suggestions are addressed below.

Columbia proposes a requirement that Staff issue a written settlement position within 60 days of the initial suspension order. AGD suggests a rule requiring that Staff serve top sheets within 60 days of the issuance of the suspension order. APGA recommends that the Commission adopt a rule requiring submission of Staff top sheets within 120 days of a filing. Panhandle suggests that an appropriate time for the Staff to file its position would be four months after the filing date. To be useful, such Staff top sheets should conform in all material respects to the proposed § 154.301 and § 154.304 standards, i.e. to reflect all changes reasonably expected as to any adjustments it is proposing to the company's filing along with supporting work papers and formulae for any calculations upon which it is relying. Further, Staff should be required to either accept the company's position or provide a fully supported alternative position. Michigan urges that the Commission reinstate the practice of establishing a date for service of top sheets as a part of this rulemaking. Michigan notes that revised filing requirements will: (1) Streamline the discovery process by providing Commission Staff and interveners with information much sooner than current procedures, and (2) result in the expeditious resolution of rate cases.

Staff initial settlement positions, or ''top sheets,'' have long assisted the settlement process. The Commission expects that the timely service of top sheets will assist parties in cases set for hearing in the future as well, and the Commission will endeavor to continue that practice. However, the Commission declines to establish a rigid deadline for service of top sheets because of the variety of circumstances that may arise in particular cases.

AGD requests regulations such that rulings on certain issues can be secured before the end of the suspension period and whereby the Commission may instruct the ALJ to resolve certain issues within specified deadlines as justified by circumstances. JMC suggests establishing procedures for staff to routinely examine rates to determine if they are just and reasonable, under section 5. JMC also suggests conditioning all settlement approvals upon the pipeline's agreement to make a general section 4 rate case within 3 years. The Commission will not adopt these suggestions at this time.

Northern Border states that its tariff is different from the industry standard and requests reinstatement of regulations (Statement N) that are appropriate for a cost-of-service tariff.

SoCal urges the Commission to encourage pipelines to have pre-filing meetings with customers. NDG suggests regulations requiring pipelines to include a description of the workpapers in the filing, serve parties workpapers on the filing date, and supply information on the electronic format. NDG suggests that pipelines requesting confidential treatment must include a confidentiality agreement in their filings. NDG suggests that every section 4 filing contain a capacity release log for the base period and a table showing earned rate of return on equity for the base period. These are also helpful suggestions and may be considered at a later time, but will not be adopted here.

NDG suggests that a request for blanket waiver of regulations not be allowed but pipelines must specifically identify what waivers are required. This has been adopted in § 154.7(a)(7).

D. Electronic Filing

1. Industry-Wide Conference

The Commission recognizes that changes to these regulations and to the forms in the companion rule necessitate modifications to the electronic formats for the affected filings and forms. To ensure the widest possible input, the NOPR directed Commission staff to convene a technical conference to obtain the participation of the industry and other users of the filed information in designing the electronic filing requirements. The conference was held on April 4, 1995 (conference), and provided an excellent start to the process of modifying the Commission's electronic filing requirements to complement the revisions to the regulations set forth in the companion rules. Most of the comments to the NOPR addressed issues discussed at the conference.

As a result of the conference and comments to the NOPR, the Commission is able to make a number of decisions related to electronic filing in this rule. The only electronic filing requirements affected by this rule deal with the form of notice, the tariff sheets and the statements and worksheets required under subpart D. The electronic filing requirements for FERC Forms 2, 2A, 11, discount rate reports, and Index of Customers are dealt with in our companion rulemaking. No changes are proposed for the electronic form of notice.

The Commission will adopt a tab delimited ASCII format for most numeric data and a format compatible with the filing company's spreadsheet

application for selected statements required by subpart D of part 154.[74]

The electronic tariff sheet formats are modified as proposed in the NOPR. However, as Columbia suggested in its comments, the electronic tariff sheet formats are modified further in this final rule to accommodate § 154.102(e)(5) which requires a FERC citation in the margin of the tariff sheet. The FERC Automated System for Tariff Retrieval (FASTR) software is modified for the change also. The modification will not affect the software's ability to read, display, or print tariff sheets filed pursuant to the pre-existing requirements.

The Commission will adopt submittal on diskette as the standard medium on which pipelines will submit their reports and filings. CD-ROM will be accepted as well.

Other issues remain. Therefore, the Commission directs staff to convene another technical conference in order to resolve the outstanding electronic filing issues jointly with the industry. This second conference is to be held as soon as possible after issuance of this rule.

2. Delayed Implementation of Electronic Filing Requirements

Many commenters urge the Commission to delay implementation of the revised electronic filing requirements until after the final rule is issued and procedures and formats have been further developed.

INGAA suggests a grace period during which a pipeline could file a rate case under either the current or revised regulations depending on its progress in making the necessary changes to its data acquisition and accounting systems. In its comments, Great Lakes argued for an immediate suspension of the current electronic filing requirements, stating the current filing requirements are obsolete. Great Lakes argued that the suspension would not have prejudiced any party wishing to review a pipeline's rate application but simply would have moved the suspension date forward.

The Commission did not suspend the electronic filing requirements at the time Great Lake's comments were filed. The Commission disagreed with Great Lakes' contention that the electronic filing requirements were obsolete. The Commission noted in the NOPR the possibility of suspending the electronic filing requirements due to the fact that the paper filing requirements in this rule could be made effective before the electronic filing requirement specifications could be made ready. Until that time, however, the Commission continued to derive benefits from the existing electronic filing requirements. Therefore, the Commission declined to act on Great Lakes' request. That request is denied.

The Commission will not adopt INGAA's suggestion to allow filing a rate case under the old or new regulations depending on the pipeline's capabilities. However, since all of the revisions to the electronic filing requirements will not be completed by the issuance date of this rule, the Commission is suspending the requirement to submit the filings made pursuant to subpart D electronically until the new electronic filing requirements are fully developed. During the suspension, only paper copies of the filings under subpart D are required. The electronic version of the tariff sheets and the notice of filing must continue to be filed electronically.

3. Software

Northwest/Williams suggests retaining only that portion of the rate case requirements referred to as ''File 3.'' [75] Northwest/Williams lists numerous shortcomings with the Commission's current rate case filing requirements and software and questions whether the Commission uses the data.

With the exception of the tariff sheets and notice of filing, all of the current electronic filing instructions, including those Northwest/Williams finds objectionable, will be revised. The Commission intends to seek the cooperation of the industry in developing the file structure required for each filing or form. The Commission does not intend to develop form fill, edit, or print software for use by the natural gas industry. Allowing private industry to develop software is the most cost-effective and efficient process. Software developed by the Commission would need to accommodate all potential users. The Commission believes that any such product would unnecessarily restrict the flexibility of individual companies. Accordingly, the Commission will not attempt to develop the associated software but will allow the industry to develop software that meets the requirements of both the company and the regulations.

4. Using Rich Text Format for Text

Several alternatives for electronic filing formats were discussed at the conference. Many pipelines recommended the use of Rich Text Format (RTF) for text. [76] INGAA states that use of RTF for text is most efficient since it allows any party to access the files using commonly available software packages.

The Commission is seeking to adopt a format for text that is compatible with use in a database, does not lead to excess errors in the text after conversion, and is available through several software packages. In light of comments strongly recommending RTF, the Commission staff has considered the efficacy of RTF for reporting text. [77] The conference participants should address alternatives to RTF and whether: the data would be error free when translated, translation would be available in the most popular word processing programs, and RTF text would be usable in databases. Further, the basic issue of when to employ RTF and when to employ delimited ASCII must be resolved to ensure uniform treatment.

5. Appropriate Format for Numeric Data

Comments regarding the appropriate format to adopt for numeric data broke down into two camps—those supporting delimited ASCII and those arguing for a spreadsheet format.

Many pipelines recommended the use of delimited formats for numeric files. INGAA states that use of ASCII delimited formats for numeric files

[74] ASCII American Standard Code for Information Interchange can convey only letters, punctuation and certain symbols. It does not convey how the document should be formatted or what fonts to use. A delimited file is created by keypunching a series of symbols using commas, tab, or some other symbol to designate the space at the end of a word or number (thus, ''tab delimited,'' ''comma delimited,'' etc.)

[75] For general rate cases, three files are filed electronically. File 1 consists of the filing in a standard format designated by the Commission for use by all companies. The Commission provides edit check and print software. File 2 contains the footnotes for File 1. File 3 contains the rate filing in a format preferred by the company (''free form''). This data is converted to an ASCII file and appears exactly as the hard copy.

[76] RTF permits the transfer of word files that have embedded text enhancement such as bold or underscoring. RTF was developed by Microsoft as a word processing document-exchange format and is available royalty free. It permits documents to be exchanged among diverse platforms. Since its inception it has gained most prominence as a format for the creation of Graphical-User-Interface based ''Help'' files. Apparently, this is related in part to its support of hyper-text.

[77] RTF is essentially a primitive example of a genre called text markup languages. It allows both the content and the appearance of a body of text to be represented as a stream of plain ASCII text, unlike a typical word processor document which consists of text interleaved with binary control information. The text stream is made up of special reserved commands and delimiters interspersed with the actual text. White space in the file is essentially ignored; line, paragraph, and page breaks are controlled by RTF commands, as are fonts, colors, margins, tabstops, and every other characteristic of text appearance you can imagine.

PC Magazine, February 7, 1995, v14, n3, p. 267.

allows any party to access the files using commonly available software packages. Panhandle and Williston agree noting that a delimited format permits columnar data fields to be imported and exported into and out of most off-the-shelf spreadsheet and database applications. Panhandle and INGAA note that many pipelines recommended at the conference that electronic filing requirements should allow a pipeline to use its current hardware. Delimited ASCII would allow them to do so.

Several pipelines argued against submission of numeric data in a spreadsheet format. Northwest states that submitting its rate case in spreadsheet format would require 23 diskettes. INGAA notes that pipelines, regulatory agencies, and intervenors employ a wide range of software and hardware products, sometimes using different releases of a single software package. Panhandle states that mandating particular application software with which to manipulate data would force parties to use a single format, and restrict parties' ability to use data filed with the Commission. Several commenters object to providing data with formulas and linkages embedded. INGAA notes that these equations tend to be complex, cumbersome, and hard to follow even in modest rate case filings. As an alternative, INGAA suggests that formulas could be provided in written form. Northwest argues that formulas and links developed by Northwest should remain confidential and proprietary and so, Northwest might seek copyrights on such information.

On the other hand, several commenters argue that numeric data should be filed in a spreadsheet format with formulas and links intact. The Industrials, AGD, and APGA urge that pipelines be required to submit spreadsheets with embedded formulas and linkages. The Industrials argue that having PC-compatible spreadsheet files with formulas and linkages intact available to customers and intervenors will speed the processing of rate cases and allow many issues to be resolved in the suspension order.

The Industrials argue that the formulas which substantiate rate increase proposals are not proprietary. Requiring parties, including staff, to input all the figures from the rate case and spend weeks and rounds of testimony to recreate the pipeline's computations is grossly inefficient and unduly burdensome. The Industrials state that the regulations should explicitly state that the filing must be in spreadsheet format with formulas and linkages intact; and, that failure to do so is grounds for rejection. Industrials state that receiving the rate case in a manipulable format will be critical given the 10-day period for comment and protest.

Williston notes that using the formats of the software the pipeline employs, the tab-delimited format, or RTF allows use of pre-determined row/column identifier formats. However, free form type structures should be utilized as much as possible to allow for the myriad of differences among the various pipelines' data processing requirements. Williston does not oppose filing data in the format of the application software it uses; provided numerical data does not include formulas or links.

One of the stated goals of the conference was to ensure that all spreadsheets contain the underlying formulas and links. Delimited formats are not capable of transmitting formulas and equations. The Commission agrees with the parties arguing for a spreadsheet format where the formulas in the workpaper or statement are important to the understanding of the pipeline's filing. To be useful, the data, required in subpart D, by Statements I and J and the state tax formulations in Statement H, must be received with the formulas included. These formulas are necessary to understand the pipeline's position with respect to cost allocation and rate design. In section 4 rate cases, the Commission has routinely obtained the formulas through data requests asking that the information be in spreadsheet form. The requirement that the initial filing be in spreadsheet format avoids the burden of having the same data submitted once as a tab delimited file and again, in response to a data request, in spreadsheet form, in order to capture the formulas. Accordingly, Statements I and J and a portion of H, containing state tax formulations submitted pursuant to subpart D, must be filed in the same format generated by the spreadsheet software used to create the statement or workpaper. These spreadsheets must include all the formulas and all links to other spreadsheets filed in the same rate case.

The Commission will not require the entire rate case to be filed in spreadsheet form. The other statements in the rate case generally do not contain formulas of a complex nature. These remaining statements will be filed in tab delimited ASCII format. As noted by some of the commenters, a delimited ASCII format for numeric data provides a format which can be written or read by several software packages on multiple platforms.

As suggested by several commenters, the Commission is specifying ''tab'' delimited ASCII formats for all other numeric data to ensure uniformity in filing. Adopting a delimited ASCII format without specifying the delimiters would lead to confusion.

NDG suggests that, upon request by an interested party, the pipeline be required to supply copies of the spreadsheets, models, and databases relied upon to prepare the filing in an electronic format, including all accompanying workpapers. This requirement would shorten the time necessary to analyze a rate case. The Commission is not convinced that this requirement must be made a part of the regulations. The underlying spreadsheets, models, and databases relied upon to prepare the filing in an electronic format may be discoverable at hearing if found necessary in a particular case.

6. Security and Reliability of Data

Williston and INGAA urge the Commission to adopt procedures to ensure the integrity of electronic filings and the security of any confidential data. Panhandle adds that the Commission should safeguard against accidental publishing of confidential data submitted electronically.

Confidential data filed with the Commission electronically will receive the same level of care extended to confidential data filed on paper. Any pipeline seeking confidential treatment for electronically filed data should adhere to the requirements of § 385.112.

7. Submission of Data to the Commission

Panhandle supports continuing data submission via diskettes, while permitting other options such as CD–ROM or high-speed telecommunications. Williston and El Paso also support the use of telecommunications for submission and dissemination of electronically filed data. However, Williston does not support the use of EDI for the filings under subpart D.[78] If telecommunication is not used, Williston suggests use of CD–ROM as an alternative to diskettes.

El Paso states that the Commission could permit the filing of a document by upload to the OPR bulletin board. Northwest suggests that, considering the prominence of electronic mail and internet, eventually, pipelines should

[78] Electronic Data Interchange (EDI) is a means by which computers exchange information over communication lines using standardized formats. For example, the capacity release data posted on a pipeline's electronic bulletin board is also available in downloadable files that conform to the standards for EDI promulgated by the American National Standards Institute (ANSI) Accredited Standards Committee (ASC).

transmit information only electronically. Sending an electronic version with paper available upon request would save money on postage and paper. El Paso requests that the Commission permit the filing of documents by electronic means only and eliminate, or reduce, the requirement to file paper copies.

The Commission will continue to require paper filings to accompany Form No. 2, Form No. 2A, Form No. 11, discount rate reports, and rate case filings. At the conference, the parties should consider whether any submission (such as the discount rate report) could effectively be filed through electronic media only. Continuing the paper copies for some filings and forms does not signal the Commission's unwillingness to eventually forgo paper versions of these filings and forms at some future time. The Commission intends to continue to work with the industry to overcome the technological and procedural hurdles associated with telecommunications and enhance the reliance on electronic filings.

Currently, electronic filings are submitted commonly on diskette. Continuation of diskette submission is appropriate as the standard means of submission since there continues to be substantial support for use of diskettes. The Commission will also permit submission on CD–ROM.[79] The Commission intends to continue to work with the industry to overcome the technological and procedural hurdles associated with telecommunications. The Commission agrees with comments by Williston and will not adopt EDI for natural gas rate cases. Many schedules are not standardized and are not compatible with this alternative.

8. Dissemination of Data by the Commission

Panhandle and Williston suggest that the Commission disseminate filed information. Applicants could provide electronic information on a voluntary basis. INGAA supports the increased dissemination of filed documents through the Commission; similar to the successful example of electronic dissemination of tariff sheets. INGAA and Williston suggest the elimination of hard copy dissemination whenever possible.

The Commission will continue to make paper copies of filings available since all members of the public are not prepared to rely solely on electronic dissemination. However, except in rare cases where the file size makes downloading impractical, the Commission intends to disseminate all filed electronic data to the general public through the Commission's gas pipeline data bulletin board. Dissemination electronically by the Commission will greatly reduce demands on the pipelines for such information in either paper or electronic form.

The Registry recommends the rate case data be made available to intervenors in a rate case in zipped (compressed) files on 3.5″ diskettes in both edit protected and edit enabled modes in at least one of the following three applications: Excel, Lotus and, QuattroPro.[80] Where edit-protection cannot be password locked, the diskette should be marked appropriately. The uncompressed file names should appear on the label or sleeve wrapper of the diskette.

The Industrials argue that, while there are good grounds for submitting a password protected version of the filing, the pipeline should give Commission staff and, upon request, others, a version without such password protection. The unprotected version should be available through downloadable electronic postings and/or on diskette.

Password protection or other forms of security should be discussed at the conference. However, as long as a paper copy is available, there is a reliable way to check the accuracy of the electronic data. Both the electronic data and the paper version of the filing are part of the official filing and should contain the same information.

The Commission will not favor one commercial vendor over another; and so, will not adopt a specific file compression or spreadsheet software. When the pipeline has a file it believes needs to be compressed, the pipeline should contact the Commission to determine if the Commission can accommodate the file compression the pipeline chooses to use. The Commission will accept rate case data in the file form generated by the spreadsheet used by the filing pipeline.

Northwest asserts that only those electronic filings that do not contain formulas and links should be accessible to the public. The Commission disagrees, if the spreadsheets do not contain confidential data, there is no reason why they cannot be released to the public as submitted.

9. Fees for Costs of Electronic Filing

Panhandle asserts that the Commission should permit pipelines to assess fees to recover the costs of implementing and providing the new data requirements. However, the issue of cost recovery for implementing the electronic filing requirements is dealt with more appropriately in a rate proceeding and not in this rulemaking.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA)[81] requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities. The Commission is not required to make such analyses if a rule would not have such an effect.

The Commission does not believe that this rule will have such an impact on small entities. Most filing companies regulated by the Commission do not fall within the RFA's definition of small entity.[82] Further, the filing requirements of small entities are reduced by the rule. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Environmental Statement

The Commission has excluded certain actions not having a significant effect on the human environment from the requirement to prepare an environmental assessment or an environmental impact statement.[83] No environmental consideration is raised by the promulgation of a rule that is clarifying, corrective, or procedural or that does not substantially change the effect of legislation or regulations being amended.[84] The instant rule changes the information to be filed, and the manner by which that information is filed, with the Commission but does not substantially change the effect of the underlying legislation or the regulations being replaced or revised. Accordingly, no environmental consideration is necessary.

[79] Technical specifications for CD–ROM submission will appear in the electronic filing instructions for each individual form or filing.

[80] The National Registry of Capacity Rights (The Registry) filed comments in Docket No. RM95–4–000. However, this comment related solely to rate case filings and, therefore, is addressed here.

[81] 5 U.S.C. 601–612.

[82] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation.

[83] 18 CFR 380.4.

[84] 18 CFR 380.4(a)(2)(ii).

VII. Information Collection Statement

The Office of Management and Budget's (OMB) regulations [85] require that OMB approve certain information and recordkeeping requirements imposed by an agency. The information collection requirements in this final rule are contained in the following: FERC Form 542 ''Gas Pipeline Rates: Initial Rates, Rate Change and Rate Tracking'' (1902–0070); FERC Form 542A Tracking and Recovery of Alaska Natural Gas Transportation System'' (1902–0129); FERC Form 543 ''Gas Pipeline Rates: Rate Tracking, Formal Rates'' (1902–0152); FERC Form 544 ''Gas Pipeline Rates: Rate Change, Formal Rates'' (1902–0153); FERC Form 545 ''Gas Pipeline Rates: Rate Change, Nonformal Rates'' (1902–0154); FERC Form 546 ''Certificated Rate Filings: Gas Pipeline Rates'' (1902–0155); and, FERC Form 547 Gas Pipeline Rates: Refund Report Requirements'' (1902–0084).

By this rule, the Commission is modernizing its regulations to reflect the current regulatory environment that it instituted with Order No. 636 and the restructuring of the natural gas industry. Specifically, the Commission is revising its regulations in part 154 to focus on transportation services instead of pipeline sales activities. The revised filing requirements will improve the internal support of a pipeline's filing and facilitate more rapid settlement or adjudication of pipeline rate proposals. The Commission's Office of Pipeline Regulation uses the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas and for general industry oversight under the Natural Gas Act. The Commission's Office of Economic Policy also uses this data in its analysis of interstate natural gas pipelines.

The Commission is submitting to the Office of Management and Budget a notification of these collections of information. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (Attention: Michael Miller, Information Services Division, (202) 208–1415). Comments on the requirements of this rule can be sent to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503, (Attention: Desk Officer for Federal Energy Regulatory Commission) FAX: (202)395–5167. You shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

[85] 5 CFR 1320.13.

VIII. Effective Date

The final rule will be effective November 13, 1995.

List of Subjects in 18 CFR Part 154

Natural gas companies, Rate schedules and tariffs.

By the Commission.

Lois D. Cashell,

Secretary.

For the reasons set out in the preamble, 18 CFR part 154 is revised to read as follows.

PART 154—RATE SCHEDULES AND TARIFFS

Subpart A—General Provisions and Conditions

Sec.

Subpart B—Form and Composition of Tariff

Subpart C—Procedures for Changing Tariffs

Subpart D—Material to be Filed With Changes

Subpart E—Limited Rate Changes

Subpart F—Refunds and Reports

Subpart G—Other Tariff Changes

Authority: 15 U.S.C. 717–717w; 31 U.S.C. 9701; 42 U.S.C. 7102–7352.

Subpart A—General Provisions and Conditions

§ 154.1 Application; Obligation to file.

(a) The provisions of this part apply to filings pursuant to section 4 of the Natural Gas Act.

(b) Every natural gas company must file with the Commission and post in conformity with the requirements of this part, schedules showing all rates and charges for any transportation or sale of natural gas subject to the jurisdiction of the Commission, and the classifications, practices, rules, and regulations affecting such rates, charges, and services, together with all contracts related thereto.

(c) No natural gas company may file, under this part, any new or changed rate schedule or contract for the performance of any service for which a certificate of public convenience and necessity or certificate amendment must be obtained pursuant to section 7(c) of the Natural Gas Act, until such certificate has been issued.

(d) For the purposes of paragraph (b) of this section, any contract that conforms to the form of service agreement that is part of the pipeline's tariff pursuant to § 154.110 does not

have to be filed. Any contract or executed service agreement which deviates in any material aspect from the form of service agreement in the tariff is subject to the filing requirements of this part.

§ 154.2 Definitions.

(a) Contract means any agreement which in any manner affects or relates to rates, charges, classifications, practices, rules, regulations, or services for any transportation or sale of natural gas subject to the jurisdiction of the Commission. This term includes an executed service agreement.

(b) FERC Gas Tariff or tariff means a compilation, either in book form or on electronic media, of all of the effective rate schedules of a particular natural gas company, and a copy of each form of service agreement.

(c) Form of service agreement means an unexecuted agreement for service included as an example in the tariff.

(d) *Post means:* to make a copy of a natural gas company's tariff and contracts available during regular business hours for public inspection in a convenient form and place at the natural gas company's offices where business is conducted with affected customers; and, to mail to each affected customer and interested state commission a copy of the tariff, or part thereof. Mailing must be accomplished by U.S. Mail, unless some other method is agreed to by the parties.

(e) Rate schedule means a statement of a rate or charge for a particular classification of transportation or sale of natural gas subject to the jurisdiction of the Commission, and all terms, conditions, classifications, practices, rules, and regulations affecting such rate or charge.

(f) Filing date means the day on which a tariff, or part thereof, or a contract is received in the Office of the Secretary of the Commission for filing in compliance with the requirements of this part.

§ 154.3 Effective tariff.

(a) The effective tariff of a natural gas company is the tariff filed pursuant to the requirements of this part, and permitted by the Commission to become effective. A natural gas company must not directly or indirectly, demand, charge, or collect any rate or charge for, or in connection with, the transportation or sale of natural gas subject to the jurisdiction of the Commission, or impose any classifications, practices, rules, or regulations, different from those prescribed in its effective tariff and executed service agreements on file with the Commission, unless otherwise specifically permitted by order of the Commission.

(b) No tariff provision may purport to change an effective rate or charge except in the manner provided in section 4 of the Natural Gas Act, and the regulations in this part. The tariff may not provide for any rate or charge to be automatically changed by an index or other periodic adjustment, without filing for a rate change pursuant to these regulations.

§ 154.4 Electronic and paper media.

(a) General rule. All statements filed pursuant to subpart D of this part, and all workpapers in spreadsheet format, and tariff sheets other than those in Volume No. 2, must be submitted on electronic media. Filings pursuant to this part 154 must also include the prescribed number of paper copies. Tariffs, rate schedules, and contracts, or parts thereof, and material related thereto, including any change in rates, notice of cancellation or termination, and certificates of adoption, must be submitted to the Commission in an original and 5 paper copies, except that filings pursuant to subpart D of this part must be submitted in an original and 12 paper copies.

(b) All filings must be signed in compliance with the following.

(1) The signature on a filing constitutes a certification that: The signer has read the filing signed and knows the contents of the paper copies and electronic media; the paper copies contain the same information as contained on the electronic media; the contents as stated in the copies and on the electronic media are true to the best knowledge and belief of the signer; and, the signer possesses full power and authority to sign the filing.

(2) A filing must be signed by one of the following:

(i) The person on behalf of whom the filing is made;

(ii) An officer, agent, or employee of the governmental authority, agency, or instrumentality on behalf of which the filing is made; or,

(iii) A representative qualified to practice before the Commission under § 385.2101 of this chapter who possesses authority to sign.

(c) Electronic media suitable for Commission filings are listed in the instructions for each form and filing. Lists of suitable electronic media are available upon request from the Commission. The formats for the electronic filing and paper copy can be obtained at the Federal Energy Regulatory Commission, Public Information and Reference Branch, 888 First Street, NE., Washington, D.C. 20426.

(d) *Where to file.* The electronic media, the paper copies and accompanying transmittal letter must be submitted in one package to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426.

(e) *Waiver.* A natural gas company may request a waiver of the requirement to submit filings by electronic media, by filing an original and 5 copies of a request for waiver. The request must demonstrate that the natural gas company does not have, and is unable to acquire, the technical capability to file the information on electronic media.

§ 154.5 Rejection of filings.

A filing that fails to comply with this part may be rejected by the Director of the Office of Pipeline Regulation pursuant to the authority delegated to the Director in § 375.307(b)(2) of this chapter.

§ 154.6 Acceptance for filing not approval.

The acceptance for filing of any tariff, contract or part thereof does not constitute approval by the Commission. Any filing which does not comply with any applicable statute, rule, or order, may be rejected.

§ 154.7 General requirements for the submission of a tariff filing or executed service agreement.

The following must be included with the filing of any tariff, executed service agreement, or part thereof, or change thereto.

(a) A letter of transmittal containing:

(1) A list of the material enclosed,

(2) The name of a responsible company official to whom questions regarding the filing may be addressed, with a telephone number at which the official may be reached,

(3) The date on which such filing is proposed to become effective,

(4) Reference to the authority under which the filing is made, including the specific section of a statute, subpart of these regulations, order of the Commission, provision of the company's tariff, or any other appropriate authority. If an order is referenced, the letter must include the citation to the FERC Reports, the date of issuance, and the lead docket number of the proceeding in which the order was issued.

(5) A list of the tariff sheets enclosed,

(6) A statement of the nature, the reasons, and the basis for the filing. The statement must include a summary of the changes or additions made to the tariff or executed service agreement, as

appropriate. A detailed explanation of the need for each change or addition to the tariff or executed service agreement must be included. The natural gas company also must note all relevant precedents relied upon to prepare its filing.

(7) Any requests for waiver. A request for waiver must include a reference to the specific section of the statute, regulations, or the company's tariff from which waiver is sought, and a justification for the waiver.

(8) Where the natural gas company proposes a new rate, identification of the last rate, found by the Commission to be just and reasonable, that underlies the proposed rate.

(9) A motion, in case of minimal suspension, to place the proposed rates into effect at the end of the suspension period; or, a specific statement that the pipeline reserves its right to file a later motion to place the proposed rates into effect at the end of the suspension period.

(b) A certification of service pursuant to § 154.2(d) to all customers on the service list and interested state commissions.

§ 154.8 Informal submission for staff suggestions.

Any natural gas company may informally submit a proposed tariff or any part thereof or material relating thereto for the suggestions of the Commission staff prior to filing. Opinions of the Commission staff are not binding upon the Commission.

Subpart B—Form and Composition of Tariff

§ 154.101 Form.

The paper copies of the tariff must be printed, typewritten, or otherwise reproduced on 8½ by 11 inch sheets of a durable paper so as to result in a clear and permanent record. The sheets of the tariff must be ruled to set off borders of ¼ inches on top, bottom, and left sides and ½ inch on the right side, and punched (3 holes) on the left side.

§ 154.102 Title page and arrangement.

(a) The title page must show on the front cover:

FERC Gas Tariff

[Volume number. For example: ''Original Volume No. 1''] of [Name of Natural-Gas Company]
Filed with The Federal Energy Regulatory Commission

(b) If the tariff consists of two or more volumes, the volumes must be identified by ''(Original) Volume No. (1)'', directly below the words ''FERC Gas Tariff.''

(c) When any volume of a tariff is to be superseded or replaced in its entirety, the replacing volume must show prominently on the title page the volume number being superseded or replaced. For example:

FERC Gas Tariff

First Revised Volume No. 1 (Supersedes Original Volume No. 1)

(d) The first page must be a title page which must carry the information shown in paragraph (b) of this section and, in addition, the name, title, and address, telephone number, and facsimile number of the person to whom communications concerning the tariff should be sent. If the address is a post office box number, a street address must also be included.

(e) All sheets must have the following information placed in the margins:

(1) *Identification.* At the left, above the top marginal ruling, the exact name of the company must be shown, under which must be set forth the words ''FERC Gas Tariff,'' together with volume identification.

(2) *Numbering of sheets.* Except for the title page, at the right above the top marginal ruling, the sheet number must appear after the words ''(Original) Sheet No.(number).'' All sheets must be numbered in the manner set forth in the Tariff Sheet Pagination Guidelines contained in the instructions for filing natural gas company tariffs on electronic media.

(3) *Issuing officer and issue date.* On the left below the lower marginal ruling, must be placed ''Issued by'': followed by the name and title of the person authorized to issue the sheet. Immediately below must be placed ''Issued on'' followed by the date of issue.

(4) *Effective date.* On the right below the lower marginal ruling must be placed ''Effective'': followed by the specific effective date proposed by the company.

(5) *Tariff Sheets filed to comply with Commission orders.* Tariff sheets which are filed to comply with Commission orders must carry the following notation in the bottom margin: ''Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. (number), issued (date), (FERC Reports citation).''

§ 154.103 Composition of tariff.

(a) The tariff must contain sections, in the following order: A table of contents, a preliminary statement, a map of the system, currently effective rates, composition of rate schedules, general terms and conditions, form of service agreement, and an index of customers.

(b) Rate schedules must be grouped according to class and numbered serially within each group, using letters before the serial number to indicate the class of service. For example: FT–1, FT–2 may be used for firm transportation service; IT–1, IT–2 may be used for interruptible transportation service; X–1, X–2 may be used for schedules for which special exception has been obtained.

§ 154.104 Table of contents.

The table of contents must contain a list of the rate schedules, sections of the general terms and conditions, and other sections in the order in which they appear, showing the sheet number of the first page of each section. The list of rate schedules must consist of: The alphanumeric designation of each rate schedule, a very brief description of the service, and the sheet number of the first page of each rate schedule.

§ 154.105 Preliminary statement.

The preliminary statement must contain a brief general description of the company's operations and may also contain a general explanation of its policies and practices. General rules and regulations, and any material necessary for the interpretation or application of the rate schedules, may not be included in the preliminary statement.

§ 154.106 Map.

(a) The map must show the general geographic location of the company's principal pipeline facilities and of the points at which service is rendered under the tariff. The boundaries of any rate zones or rate areas must be shown and the areas or zones identified. The entire system should be displayed on a single map. In addition, a separate map should be provided for each zone.

(b) The map must be provided on paper only.

(c) The map must be revised to reflect any major changes. The revised map must be filed no later than April 30 of the calendar year after the major change.

§ 154.107 Currently effective rates.

(a) This section of the tariff must present the currently effective rates and charges under each rate schedule.

(b) All rates must be stated clearly in cents or dollars and cents per thermal unit. The unit of measure must be stated for each component of a rate.

(c) A rate having more than one part must have each component set out separately under appropriate headings (e.g., ''Reservation Charge,'' ''Usage Charge.'')

(d) Where a component of a rate is adjusted pursuant to a mechanism

approved under subpart E of this part, the adjustment must be stated in a separate column on the rate sheet.

(e) Exception to paragraph (d) of this section. Where the rate component is an Annual Charge Adjustment or Gas Research Institute surcharge approved by the Commission, the adjustment or surcharge may be stated in a footnote on the rate sheet.

(f) A total rate, indicating the sum of the rate components under paragraph (c) of this section plus the adjustments under paragraph (d) of this section, must be shown in the last column at the end of a line for a rate, so that a reader can readily determine the separate components comprising the total rate for a service.

§ 154.108 Composition of rate schedules.

The rate schedule must contain a statement of the rate or charge and all terms and conditions governing its application, arranged as follows:

(a) *Title.* Each rate schedule must have a title consisting of a designation of the type or classification of service (see § 154.103(b)), and a statement of the type or classification of service to which the rate is applicable.

(b) *Availability.* This paragraph must describe the conditions under which the rate is offered, including any geographic zone limitations.

(c) *Applicability and character of service.* This paragraph must fully describe the kind or classification of service to be rendered.

(d) *Summary of rates.* This paragraph must briefly set forth all components of the rates, refer to the location of the rates in the Currently Effective Rates, and provide a description of the calculation of the monthly charges for each rate component.

(e) *Other provisions.* All other major provisions governing the application of the rate schedule, such as determination of billing demand, contract demand, heat content, and measurement base, must be set forth with appropriate headings or incorporated by reference to the applicable general terms and conditions.

(f) *Applicable terms and conditions.* This paragraph either states that all of the general terms and conditions set forth in the tariff apply to the rate schedule, or specifies which of the general terms and conditions do not apply.

§ 154.109 General terms and conditions.

(a) This section of the tariff contains terms and conditions of service applicable to all or any of the rate schedules. Subsections and paragraphs must be numbered for convenient reference.

(b) The general terms and conditions of the tariff must contain a statement of the company's policy with respect to the financing or construction of laterals including when the pipeline will pay for or contribute to the construction cost. The term ''lateral'' means any pipeline extension (other than a mainline extension) built from an existing pipeline facility to deliver gas to one or more customers, including new delivery points and enlargements or replacements of existing laterals.

(c) The general terms and conditions of the tariff must contain a statement of the order in which the company discounts its rates and charges. The statement, specifying the order in which each rate component will be discounted, must be in accordance with Commission policy.

§ 154.110 Form of service agreement.

The tariff must contain an unexecuted pro forma copy of each form of service agreement. The form for each service must refer to the service to be rendered and the applicable rate schedule of the tariff; and, provide spaces for insertion of the name of the customer, effective date, expiration date, and term. Spaces may be provided for the insertion of receipt and delivery points, contract quantity, and other specifics of each transaction as appropriate.

§ 154.111 Index of customers.

(a) If a pipeline is in compliance with the reporting requirements of § 284.106 or § 284.223 of this chapter, then an index of customers need not be provided in the tariff.

(b) If all of a pipeline's jurisdictional transportation and sales are pursuant to part 157 of this chapter, then an index of customers must be provided that contains: a list of the pipeline's firm transportation, storage, and sales customers, and the rate schedule number for the services for which the shippers are contracting; the effective date of the contract; the expiration date of the contract; if the service is transportation or sales, the maximum daily contract demand under the contract; and, if the service is storage, the maximum storage quantity. Specify units of measurement when reporting contract quantities.

(c) The index of customers must be kept current by filing new or revised sheets, semi-annually. One filing must coincide with the filing of the natural gas company's FERC Form No. 2 or 2–A with a proposed effective date of June 1. The other filing must be made six months later with a proposed effective date of December 1. The Index of Customers must contain a list of the contracts in effect as of the filing date.

§ 154.112 Exception to form and composition of tariff.

(a) The Commission may permit a special rate schedule to be filed in the form of an agreement in the case of a special operating arrangement, previously certificated pursuant to part 157 of this chapter, such as for the exchange of natural gas. The special rate schedule must contain a title page showing the parties to the agreement, the date of the agreement, a brief description of services to be rendered, and the designation: ''Rate Schedule X-[number].'' Special rate schedules may not contain any supplements. Modifications must be by revised or insert sheets. Special rate schedules must be included in Volume No. 2 of the tariff. Volume No. 2 must contain a table of contents which is incorporated with the table of contents of Volume No. 1.

(b) Contracts for service pursuant to part 284 of this chapter that deviate in any material aspect from the form of service agreement must be filed. Such non-conforming agreements must be referenced in FERC Volume No. 1.

Subpart C—Procedures for Changing Tariffs

§ 154.201 Filing requirements.

In addition to the requirements of subparts A and B of this part, the following must be included with the filing of any tariff, executed service agreement, or part thereof, that changes or supersedes any tariff, contract, or part thereof, on file with the Commission.

(a) A marked version of the pages to be changed or superseded showing additions and deletions. All new numbers and text must be marked by either highlight, background shading, bold, or underline. Deleted text and numbers must be indicated by strike-through. A marked version of the pages to be changed must be included in each copy of the filing required by these regulations.

(b) Documentation whether in the form of workpapers, or otherwise, sufficiently detailed to support the company's proposed change.

(1) The documentation must include but is not limited to the schedules, workpapers, and supporting documentation required by these rules and regulations and the Commission's orders.

(2) All rate changes in the filing must be supported by step-by-step mathematical calculations and sufficient

written narrative to allow the Commission and interested parties to duplicate the company's calculations.

(3) Any data or summaries included in the filing purporting to reflect the books of account must be supported by accounting workpapers setting forth all necessary particulars from which an auditor may readily verify that such data are in agreement with the company's books of account. All statements, schedules, and workpapers must be prepared in accordance with the classifications of the Commission's Uniform System of Accounts. Workpapers in support of all adjustments, computations, and other information, properly indexed and cross-referenced to the filing and other workpapers, must be available for Commission examination.

(4) Where a rate, cost, or volume is derived from another rate, cost, or volume, the derivation must be shown mathematically and be accompanied by a written narrative sufficient to allow the Commission and interested parties to duplicate the calculations. If the derivation is due to a load factor adjustment, application of a percentage, or other adjusting factor, the pipeline must also note or explain the origin of the adjusting factor.

(5) Where workpapers show progressive calculations, any discontinuity between one working paper and another must be explained.

§ 154.202 Filings to initiate a new rate schedule.

(a) When the filing is to initiate a new service authorized under a blanket authority in part 284 of this chapter, the filing must comply with the requirements of this paragraph.

(1) Filings under this paragraph must:

(i) Adhere to the requirements of subparts A, B, and C of this part;

(ii) Contain a description of the new service, including, but not limited to, the proposed effective date for commencement of service, applicability, whether the service is interruptible or firm, and the necessity for the service;

(iii) Explain how the new service will differ from existing services, including a concise description of the natural gas company's existing operations;

(iv) Explain the impact of the new service on existing firm and interruptible customers, including but not limited to:

(A) The adequacy of existing capacity, if the proposed service is a firm service, and

(B) The effect on receipt and delivery point flexibility, nominating and scheduling priorities, allocation of capacity, operating conditions, and curtailment, for any new service;

(v) Include workpapers that detail the computations underlying the proposed rate under the new rate schedule; or, if the rate is a currently effective rate, include the appropriate reference and an explanation of why the rate is appropriate;

(vi) Give a justification, similar in form to filed testimony in a general section 4 rate case, explaining why the proposed rate design and proposed allocation of costs are just and reasonable;

(vii) If the costs relating to existing services are reallocated to new services, explain the method for allocating the costs and the impact on the existing customers;

(viii) Include workpapers showing the estimated effect on revenue and costs over the twelve-month period commencing on the proposed effective date of the filing.

(ix) List other filings pending before the Commission at the time of the filing which may significantly affect the filing. Explain how the instant filing would be affected by the outcome of each related pending filing;

(2) Any interdependent filings must be filed concurrently and contain a notice of the interdependence.

(b) If a new service, facility, or rate is specifically authorized by a Commission order pursuant to section 7 of the Natural Gas Act, with the filing of tariff sheets to implement the new rate schedule, the natural gas company must:

(1) Comply with the requirements of § 154.203; and

(2) Where the rate or charge proposed differs from the rate or charge approved in the certificate order, the natural gas company must: Show that the change is due to a rate adjustment under a periodic rate change mechanism previously accepted under § 154.403 which has taken effect since the certificate order was issued; or, show that the rate change is in accordance with the terms of the certificate, and provide workpapers justifying the change.

§ 154.203 Compliance filings.

(a) In addition to the requirements of subparts A, B, and C of this part, filings made to comply with orders issued by the Commission, including those issued under delegated authority, must contain the following:

(1) A list of the directives with which the company is complying;

(2) Revised workpapers, data, or summaries with cross-references to the originally filed workpapers, data, or summaries;

(b) Filings made to comply with Commission orders must include only those changes required to comply with the order. Such compliance filings may not be combined with other rate or tariff change filings. A compliance filing that includes other changes or that does not comply with the applicable order in every respect may be rejected.

§ 154.204 Changes in rate schedules, forms of service agreements, or the general terms and conditions.

A filing to revise rate schedules, forms of service agreements, or the general terms and conditions, must:

(a) Adhere to the requirements of subparts A, B, and C, of this part;

(b) Contain a description of the change in service, including, but not limited to, applicability, necessity for the change, identification of services and types of customers that will be affected by the change;

(c) Explain how the proposed tariff provisions differ from those currently in effect, including an example showing how the existing and proposed tariff provisions operate. Explain why the change is being proposed at this time;

(d) Explain the impact of the proposed revision on firm and interruptible customers, including any changes in a customer's rights to capacity in the manner in which a customer is able to use such capacity, receipt or delivery point flexibility, nominating and scheduling, curtailment, capacity release;

(e) Include workpapers showing the estimated effect on revenues and costs over the 12-month period commencing on the proposed effective date of the filing. If the filing proposes to change an existing penalty provision, provide workpapers showing the penalty revenues and associated quantities under the existing penalty provision during the latest 12-month period; and

(f) List other filings pending before the Commission which may significantly affect the filing.

§ 154.205 Changes related to suspended tariffs, executed service agreements, or parts thereof.

(a) *Withdrawal of suspended tariffs, executed service agreements, or parts thereof.* A natural gas company may not, within the period of suspension, withdraw a proposed tariff, executed service agreement, or part thereof, that has been suspended by order of the Commission, except by special permission of the Commission granted upon application therefor and for good cause shown.

(b) *Changes in suspended tariffs, executed service agreements, or parts thereof.* A natural gas company may not, within the period of suspension, file any change in a proposed tariff, executed service agreement, or part thereof, that has been suspended by order of the Commission, except by special permission of the Commission granted upon application therefor and for good cause shown.

(c) *Changes in tariffs, executed service agreements, or parts thereof continued in effect, and which were to be changed by the suspended filing.* A natural gas company may not, within the period of suspension, file any change in a tariff, executed service agreement, or part thereof, that is continued in effect by operation of the order of suspension, and that was proposed to be changed by the suspended filing, except:

(1) Under a previously approved tariff provision permitting a limited rate change, or

(2) By special permission of the Commission.

§ 154.206 Motion to place suspended rates into effect.

(a) If, prior to the end of the suspension period, the Commission has issued an order requiring changes in the filed rates, or the filed rates recover costs for facilities not certificated and in service as of the proposed effective date, in order to place the suspended rates into effect, the pipelne must file a motion at least one day prior to the effective date requested by the pipeline. The motion must be accompanied by revised tariff sheets reflecting any changes ordered by the Commission or modifications approved by the Commission during the suspension period under § 154.205. The filing of the revised tariff sheets must:

(1) Comply with the requirements of subparts A, B, and C of this part;

(2) Identify the Commission order directing the revision;

(3) List the modifications made to the currently effective rate during the suspension period, the docket number in which the modifications were filed, and identify the order permitting the modifications.

(b) Where the Commission has suspended the effective date of a change of rate, charge, classification, or service for a minimal period and the pipeline has not included a motion in its transmittal letter, or has specified in its transmittal letter pursuant to § 154.7(a)(9), that it reserves its right to file motion to place the proposed change of rate, charge, classification, or service into effect at the end of the suspension period, the change will go into effect, subject to refund, upon motion of the pipeline.

(c) Where the Commission has suspended the effective date of a change of rate, charge, classification, or service for a minimal period and the pipeline has included, in its transmittal letter pursuant to § 154.7(a)(9), a motion to place the proposed change of rate, charge, classification, or service into effect at the end of the suspension period, the change will go into effect, subject to refund, on the authorized effective date.

§ 154.207 Notice requirements.

All proposed changes in tariffs, contracts, or any parts thereof must be filed with the Commission and posted not less than 30 days nor more than 60 days prior to the proposed effective date thereof, unless a waiver of the time periods is granted by the Commission.

§ 154.208 Service on customers and other parties.

(a) On or before the filing date, the company must serve, upon all customers as of the date of the filing and all affected state regulatory commissions, an abbreviated form of the filing consisting of: The Letter of Transmittal; the Statement of Nature, Reason, and Basis; the changed tariff sheets; a summary of the cost-of-service and rate base; and, summary of the magnitude of the change.

(b) On or before the filing date, the company must serve a full copy of the filing upon all customers and state regulatory commissions that have made a standing request for such service.

(c) Within 48 hours of receiving a request for a complete copy from any customer or state commission that has not made a standing request, the company must serve a full copy of any filing.

§ 154.209 Form of notice for Federal Register.

The company must file a form of notice suitable for publication in the **Federal Register**. The company must also submit a copy of the notice on a separate 3½″ diskette in ASCII format. Each diskette must be labelled with the name of the company and the words ''notice of filing.'' The notice must be in the following form:

United States of America Federal Energy Regulatory Commission

(Name of Company) Docket No.

Notice of Proposed Changes in FERC Gas Tariff (or Notice of Compliance Filing)

Take notice that on (date),(name of company) tendered for filing as part of its FERC Gas Tariff, Volume No. (number), the following tariff sheets, to become effective (insert effective date). (List tariff sheets). [The following language in the first paragraph applies only to compliance filings.] (Name of company) asserts that the purpose of this filing is to comply with the Commission's order issued (insert issue date), in (docket). [The following language in the first paragraph applies only to rate change filings.] The proposed changes would (increase/decrease) revenues from jurisdictional service by (dollar amount) based on the 12-month period ending (date), as adjusted. [For proposed changes other than changed rates and charges, the company must state concisely the nature of these changes.]

[The company must briefly describe the reasons for the proposed changes in the second paragraph.]

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with § 385.214 and § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before (insert date 12 days after filing date). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

§ 154.210 Protests, interventions, and comments.

(a) Unless the notice issued by the Commission provides otherwise, any protest, intervention or comment to a tariff filing made pursuant to this part must be filed in accordance with § 385.211 of this chapter, not later than 12 days after the subject tariff filing. A protest must state the basis for the objection. A protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestant a party to the proceeding. A person wishing to become a party to the proceeding must file a motion to intervene.

(b) Any motion to intervene must be filed not later than 12 days after the subject tariff filing in accordance with § 385.214 of this chapter.

Subpart D—Material To Be Filed With Changes

§ 154.301 Changes in rates.

(a) Except for changes in rates pursuant to subparts E, F and G, of this part, any natural gas company filing for a change in rates or charges, except for a minor rate change, must submit, in addition to the material required by subparts A, B, and C of this part, the Statements and Schedules described in § 154.312.

(b) A natural gas company filing for a minor rate change must file the Statements and Schedules described in § 154.313.

(c) A natural gas company filing for a change in rates or charges must be prepared to go forward at a hearing and sustain, solely on the material submitted with its filing, the burden of proving that the proposed changes are just and reasonable. The filing and supporting workpapers must be of such composition, scope, and format as to comprise the company's complete case-in-chief in the event that the change is suspended and the matter is set for hearing. If the rate fixing adjustments presented are not in full accord with any prior Commission decision directly involving the filing company, the company must include in its working papers alternate material reflecting the effect of such prior decision. (For purposes of this section, rate of return is not a rate fixing adjustment.)

§ 154.302 Previously submitted material.

(a) If all, or any portion, of the information called for by this part has already been submitted to the Commission within six months of the filing date of this application, or is included in other data filed pursuant to this part, specific reference thereto may be made in lieu of resubmission.

(b) If a new FERC Form No. 2 or 2–A is required to be filed within 60 days from the end of the base period, the new FERC Form No. 2 or 2–A must be filed concurrently with the rate change filing. There must be furnished to the Director, Office of Pipeline Regulation, with the rate change filing, one copy of the FERC Form No. 2 or 2–A.

§ 154.303 Test periods.

Statements A through M, O, P, and supporting schedules, in § 154.312 and § 154.313, must be based upon a test period.

(a) If the natural gas company has been in operation for 12 months on the filing date, then the test period consists of a base period followed by an adjustment period.

(1) The base period consists of 12 consecutive months of the most recently available actual experience. The last day of the base period may not be more than 4 months prior to the filing date.

(2) The adjustment period is a period of up to 9 months immediately following the base period.

(3) The test period may not extend more than 9 months beyond the filing date.

(4) The rate factors (volumes, costs, and billing determinants) established during the base period may be adjusted for changes in revenues and costs which are known and measurable with reasonable accuracy at the time of the filing and which will become effective within the adjustment period. The base period factors must be adjusted to eliminate nonrecurring items. The company may adjust its base period factors to normalize items eliminated as nonrecurring.

(b) If the natural gas company has not been in operation for 12 months on the filing date, then the test period must consist of 12 consecutive months ending not more than one year after the filing date. Rate factors may be adjusted as in paragraph (a)(4) of this section but must not be adjusted for occurrences anticipated after the 12-month period.

(c)(1) Adjustments to base period experience, or to estimates where 12 months' experience is not available, may include the costs for facilities for which either a permanent or temporary certificate has been granted, provided such facilities will be in service within the test period; or a certificate application is pending. The filing must identify facilities, related costs and the docket number of each such outstanding certificate. Subject to paragraph (c)(2) of this section, adjustments to base period experience, or to estimates where 12 months' experience is not available, may include any amounts for facilities that require a certificate of public convenience and necessity, where a certificate has not been issued by the filing date but is expected to be issued before the end of the test period. Adjustments to base period may include costs for facilities that do not require a certificate and are in service by the end of the test period.

(2) When a pipeline files a motion to place the rates into effect, the filing must be revised to exclude the costs associated with any facilities not in service as of the earlier of the effective date or the end of the test period.

(d) The Commission may allow reasonable deviation from the prescribed test period.

§ 154.304 Format of statements, schedules, workpapers and supporting data.

(a) All statements, schedules, and workpapers must be prepared in accordance with the Commission's Uniform System of Accounts.

(b) The data in support of the proposed rate change must include the required particulars of book data, adjustments, and other computations and information on which the company relies, including a detailed narrative explanation of each proposed adjustment to base period actual volumes and costs.

(c) Book data included in statements and schedules required to be prepared or submitted as part of the filing must be reported in a separate column or columns. All adjustments to book data must also be reported in a separate column or columns so that book amounts, adjustments thereto, and adjusted amounts will be clearly disclosed. All adjustments must be supported by a narrative explanation.

(d) Certain of the statements and schedules of § 154.313 are workpapers. Any data or summaries reflecting the books of account must be supported by accounting workpapers setting forth all necessary particulars from which an auditor may readily identify the book data included in the filing and verify that such data are in agreement with the company's books of account.

§ 154.305 Tax normalization.

(a) *Applicability.* An interstate pipeline must compute the income tax component of its cost-of-service by using tax normalization for all transactions.

(b) *Definitions.*

(1) *Tax normalization* means computing the income tax component as if transactions recognized in each period for ratemaking purposes are also recognized in the same amount and in the same period for income tax purposes.

(2) *Commission-approved ratemaking* method means a ratemaking method approved by the Commission in a final decision. This includes a ratemaking method that is part of an approved settlement or arbitration providing that the ratemaking method is to be effective beyond the term of the settlement or arbitration.

(3) *Income tax purposes* means for the purpose of computing actual income tax under the provisions of the Internal Revenue Code or the income tax provisions of the laws of a State or political subdivision of a State (including franchise taxes).

(4) *Income tax component* means that part of the cost-of-service that covers income tax expenses allowable by the Commission.

(5) *Ratemaking purposes* means for the purpose of fixing, modifying, accepting, approving, disapproving, or rejecting rates under the Natural Gas Act.

(6) *Tax effect* means the tax reduction or addition associated with a specific expense or revenue transaction.

(7) *Transaction* means an activity or event that gives rise to an accounting entry.

(c) *Reduction of, and addition to, Rate Base.* (1) The rate base of an interstate pipeline using tax normalization under this section must be reduced by the balances that are properly recordable in Account 281, ''Accumulated deferred income taxes-accelerated amortization property''; Account 282, ''Accumulated deferred income taxes—other property'': and Account 283, ''Accumulated deferred income taxes—other.'' Balances that are properly recordable in Account 190, ''Accumulated deferred income taxes,'' must be treated as an addition to rate base. Include, as an addition or reduction, as appropriate, amounts in Account 182.3, Other regulatory assets, and Account 254, Other regulatory liabilities, that result from a deficiency or excess in the deferred tax accounts (see paragraph (d) of this section) and which have been, or are soon expected to be, authorized for recovery or refund through rates.

(2) Such rate base reductions or additions must be limited to deferred taxes related to rate base, construction, or other costs and revenues affecting jurisdictional cost-of-service.

(d) *Special rules.* (1) This paragraph applies:

(i) If the rate applicant has not provided deferred taxes in the same amount that would have accrued had tax normalization always been applied; or

(ii) If, as a result of changes in tax rates, the accumulated provision for deferred taxes becomes deficient in, or in excess of, amounts necessary to meet future tax liabilities.

(2) The interstate pipeline must compute the income tax component in its cost-of-service by making provision for any excess or deficiency in deferred taxes.

(3) The interstate pipeline must apply a Commission-approved ratemaking method made specifically applicable to the interstate pipeline for determining the cost-of-service provision described in paragraph (d)(2) of this section. If no Commission-approved ratemaking method has been made specifically applicable to the interstate pipeline, then the interstate pipeline must use some ratemaking method for making such provision, and the appropriateness of such method will be subject to case-by-case determination.

(4) An interstate pipeline must continue to include, as an addition or reduction to rate base, any deficiency or excess attributable to prior flow-through or changes in tax rates (paragraphs (d)(1)(i) and (d)(1)(ii) of this section), until such deficiency or excess is fully amortized in accordance with a Commission approved ratemaking method.

§ 154.306 Cash working capital.

A natural gas company that files a tariff change under this part may not receive a cash working capital adjustment to its rate base unless the company or other participant in a rate proceeding under this part demonstrates, with a fully developed and reliable lead-lag study, a net revenue receipt lag or a net expense payment lag (revenue lead). Any demonstrated net revenue receipt lag will be credited to rate base; and, any demonstrated net expense payment lag will be deducted from rate base.

§ 154.307 Joint facilities.

The Statements required by § 154.312 must show all costs (investment, operation, maintenance, depreciation, taxes) that have been allocated to the natural gas operations involved in the subject rate change and are associated with joint facilities. The methods used in making such allocations must be provided.

§ 154.308 Representation of chief accounting officer.

The filing must include a statement executed by the chief accounting officer or other authorized accounting representative of the filing company representing that the cost statements, supporting data, and workpapers, that purport to reflect the books of the company do, in fact, set forth the results shown by such books.

§ 154.309 Incremental expansions.

(a) For every expansion for which incremental rates are charged, the company must provide a summary with applicable cross-references to § 154.312 and § 154.313, of the costs and revenues associated with the expansion, until the Commission authorizes the costs of the incremental facilities to be rolled-in to the pipeline's rates. For every expansion that has an at-risk provision in the certificate authorization, the costs and revenues associated with the facility must be shown in summary format with applicable cross-references to § 154.312 and § 154.313, until the Commission removes the at-risk condition.

(b) The summary statements must provide the formulae and explain the bases used in the allocation of common costs to each incremental facility.

§ 154.310 Zones.

If the company maintains records of costs by zone, and proposes a zone rate methodology based on these costs, the statements and schedules in § 154.312 and § 154.313 must reflect costs detailed by zone.

§ 154.311 Updating of statements.

(a) Certain statements and schedules in § 154.312, that include test period data, must be updated with actual data by month and must be resubmitted in the same format and with consecutive 12 month running totals, for each month of the adjustment period. The updated statements or schedules must be filed 45 days after the end of the test period. The updated filing must reference the associated docket number and must be filed in the same format, form, and number as the original filing.

(b) The statements and schedules in § 154.312 to be updated are: Statements C, D and H–4; Schedules B–1, B–2, C–3, D–2, E–2, E–4, G–1, G–4, G–5, G–6, H–1 (1)(a), H–1 (1)(b), H–1 (1)(c), H–1 (3)(a) through H–1 (3)(l), H–2 (1), H–3 (3), I–4, and I–6.

§ 154.312 Composition of Statements.

(a) *Statement A.* Cost-of-service Summary. Summarize the overall gas utility cost-of-service: operation and maintenance expenses, depreciation, taxes, credits to cost-of-service, and return as developed in other statements and schedules.

(b) *Statement B.* Rate Base and Return Summary. Summarize the overall gas utility rate base shown in Statements C, D, E, and Schedules B–1 and B–2. Show the application of the claimed rate of return to the overall rate base.

(1) *Schedule B–1.* Accumulated Deferred Income Taxes (Account Nos. 190, 282, and 283). Show monthly book balances of accumulated deferred income taxes for each of the 12 months during the base period. List all items for which the accumulated deferred income taxes are calculated. In adjoining columns, show additions and reductions for the adjustment period balance and the total adjusted balance. Separately identify the individual components and the amounts in these accounts that the company seeks to include in its rate base.

(2) *Schedule B–2.* Regulatory Asset and Liability. If the pipeline seeks recovery of such balances in rate base, show monthly book balances of regulatory assets (Account 182.3) and liabilities (Account 254) for each of the 12 months during the base period. In adjoining columns, show additions and reductions for the adjustment period balance and the total adjusted balance. Separately identify the individual components and the amounts in these accounts that the company seeks to include in its rate base. Identify any specific Commission authority that

required the establishment of these amounts. Regulatory asset or liability net of deferred tax amounts should be included. Also, separately state the gross amounts of the regulatory asset and liability.

(c) *Statement C.* Cost of Plant Summary. Show the amounts of gas utility plant classified by Accounts 101, 102, 103, 104, 105, 106, 107, 117.1, and 117.2 as of the beginning of the 12 months of actual experience, the book additions and reductions (in separate columns) during the 12 months, and the book balances at the end of the 12-month period. In adjoining columns, show the claimed adjustments, if any, to the book balances and the total cost of plant to be included in rate base. For Account 117, also provide the volumes by subaccount. State the method used for accounting for system gas recorded in Account 117.2. Explain all adjustments in the following schedules.

(1) *Schedule C–1.* End of Base and Test Period Plant Functionalized. Demonstrate the ending base and test period balances for Plant in Service, in columnar form, by detailed plant account prescribed by the Commission's Uniform System of Accounts for Natural Gas Companies (part 201 of this chapter) with subtotals by functional classifications, e.g., Intangible Plant, Manufactured Gas Production Plant, Natural Gas Production and Gathering Plant, Products Extraction Plant, Storage Plant, Transmission Plant, Distribution Plant, and General Plant. Show zones, to the extent required by § 154.310, and expansions, to the extent required by § 154.309. Separately identify those facilities and associated costs claimed for the test period that require certificate authority but such authority has not been obtained at the time of filing. Give the docket number of the certificate proceeding.

(2) *Schedule C–2.* Show, for Accounts 106 and 107, a list of work orders claimed in the rate base. Give the work order number, docket number, description, amount of each work order, and the amounts of each type of undistributed construction overhead. Work orders amounting to $500,000 or less may be grouped by category of items.

(3) *Schedule C–3.* A cross-reference to updated information in the company's FERC Form No. 2 may be substituted for this Schedule. Give details of each storage project owned and storage projects under contract to the company, showing cost by major functions. Show base and system gas storage quantities and associated costs by account for the test period and for the 12 months of actual experience with monthly inputs and outputs to system gas.

(4) *Schedule C–4.* This schedule is part of the workpapers. State the methods and procedures followed in capitalizing the allowance for funds used during construction and other construction overheads. This schedule must be provided only in situations when the pipeline has changed any of its procedures since the last filed FERC Forms No. 2 or 2–A.

(5) *Schedule C–5.* This schedule is part of the workpapers. Set forth the cost of Plant in Service carried on the company's books as gas utility plant which was not being used in rendering gas service. Describe the plant. This schedule must be provided only if there is a significant change of $500,000 or more since the end of the year reported in the company's last FERC Form No. 2 or 2–A.

(d) *Statement D.* Accumulated Provisions for Depreciation, Depletion, and Amortization. Show the accumulated provisions for depreciation, depletion, amortization, and abandonment (Account 108, detailed by functional plant classification, and Account 111), as of the beginning of the 12 months of actual experience, the book additions and reductions during the 12 months, and the balances at the end of the 12-month period. In adjoining columns, show adjustments to these ending book balances and the total adjusted balances. All adjustments must be explained in the supporting material. Any authorized negative salvage must be maintained in a separate subaccount of Account 108. For each functional plant classification, show depreciation reserve associated with offshore and onshore plant separately. The following schedules and additional material must be submitted as part of Statement D:

(1) *Schedule D–1.* This schedule is part of the workpapers. Show the depreciation reserve book balance applicable to that portion of the depreciation rate not yet approved by the Commission, the depreciation rates, the docket number of the order approving such rate, and an explanation of any difference. Reflect actual end of base period depreciation reserve functionalized. Show accumulated depreciation and amortization, in columnar form, for the ending base and test period balances by functional classifications of Accumulated Depreciation reserve. (Examples are provided in Schedule C–1). For each functional plant classification, show depreciation reserve associated with offshore and onshore plant separately.

(2) *Schedule D–2.* This schedule is part of the workpapers. Give a description of the methods and procedures used in depreciating, depleting, and amortizing plant and in recording abandonments. This schedule must be filed only if a policy change has been made effective since the period covered by the last annual report on FERC Form No. 2 or 2–A was filed with the Commission.

(e) *Statement E.* Working Capital. Show the components of working capital in sufficient detail to explain how the amount of each component was computed. Components of working capital, other than cash working capital, may include an allowance for the average of 13 monthly balances of materials and supplies and prepayments actually expended and gas for resale. To the extent the applicant files to adjust the average of any 13 monthly balances, workpapers must be submitted that support the adjustment(s). Show the computations, cross-references, and sources from which the data used in computing claimed working capital are derived. The following schedules and material must be submitted as part of Statement E:

(1) *Schedule E–1.* Show the computation of cash working capital claimed as an adjustment to the gas company's rate base. Any adjustment to rate base requested must be based on a fully-developed and reliable lead-lag study. The components of the lead-lag study must include actual total company revenues, purchased gas costs, storage expense, transportation and compression of gas by others, salaries and wages, administrative and general expenses, income taxes payable, taxes other than income taxes, and any other operating and maintenance expenses for the base period. Cash working capital allowances in the form of additions to rate base may not exceed one-eighth of the annual operating expenses, as adjusted, net of non-cash items.

(2) *Schedule E–2.* Set forth monthly balances for materials, supplies, and prepayments in such detail as to disclose, either by subaccounts regularly maintained on the books or by analysis of the principal items included in the main account, the nature of such charges.

(3) *Schedule E–3.* For FERC Accounts 117.3, 164.1, 164.2 and 164.3, show the quantities and the respective costs of natural gas stored at the beginning of the test period, the input, output and balance remaining in Dth and associated costs by months. The method of pricing input, output and balance, and the claimed adjustments shall be disclosed and clearly and fully explained.

Pipelines using the inventory method for system gas should not include any system gas inventory balances in this schedule.

(f) *Statement F–1.* Rate of Return Claimed. Show the percentage rate of return claimed and the general reasons therefor. Where any component of the capital of the filing company is not primarily obtained through its own financing, but is primarily obtained from a company by which the filing company is controlled, as defined in the Commission's Uniform System of Accounts, then the data required by these statements must be submitted with respect to the debt capital, preferred stock capital, and common stock capital of such controlling company or any intermediate company through which such funds have been secured. Furnish the Commission staff a copy of the latest prospectus issued by the filing natural gas company, any superimposed holding company, or subsidiary companies.

(g) *Statement F–2.* Show

(1) The capitalization, capital structure, cost of debt capital, preferred stock capital, and the claimed return on stockholders' equity;

(2) The weighted cost of each capital class based on the capital structure; and,

(3) The overall rate of return claimed.

(h) *Statement F–3.* Debt Capital. Show the weighted average cost of debt capital based upon the following data for each class and series of long-term debt outstanding according to the balance sheet, as of the end of the 12-month base period of actual experience and as of the end of the 9-month test period.

(1) Title.

(2) Date of issuance and date of maturity.

(3) Interest rate.

(4) Principal amount of issue: Gross proceeds; Underwriters' discount or commission: Amount; Percent gross proceeds; Issuance expense: Amount; Percent gross proceeds; Net proceeds; Net proceeds per unit.

(5) Cost of money: Yield to maturity based on the interest rate and net proceeds per unit outstanding determined by reference to any generally accepted table of bond yields. The yield to maturity is to be expressed as a nominal annual interest rate. For example, for bonds having semiannual payments, the yield to maturity is twice the semiannual rate.

6) If the issue is owned by an affiliate, state the name and relationship of the owner.

(7) If the filing company has acquired, at a discount or premium, some part of its outstanding debt which could be used in meeting sinking fund requirements, or for other reasons, separately show: The annual amortization of the discount or premium for each series of debt from the date of reacquisition over the remaining life of the debt being retired; and, the total discount and premium, as a result of such amortization, applicable to the test period.

(i) *Statement F–4.* Preferred Stock Capital. Show the weighted average cost of preferred stock capital based upon the following data for each class and series of preferred stock outstanding according to the balance sheet, as of the end of the 12-month base period of actual experience and as of the end of the nine-month test period.

(1) Title.

(2) Date of issuance.

(3) If callable, call price.

(4) If convertible, terms of conversion.

(5) Dividend rate.

(6) Par or stated amount of issue: Gross proceeds; Underwriters' discount or commission: Amount; Percent gross proceeds; Issuance expenses: Amount; Percent gross proceeds; Net proceeds; Net proceeds per unit.

(7) Cost of money: Annual dividend rate divided by net proceeds per unit.

(8) State whether the issue was offered to stockholders through subscription rights or to the public.

(9) If the issue is owned by an affiliate, state the name and relationship of the owner.

(j) *Statement G.* Revenues, Credits, and Billing Determinants.

(1) Show in summary format the information requested below on revenues, credits and billing determinants for the base period and the base period as adjusted. Explain the basis for adjustment to the base period. The level of billing determinants should not be adjusted for discounting.

(i) *Revenues.* Provide the total revenues, from jurisdictional and non-jurisdictional services, classified in accordance with the Commission's Uniform System of Accounts for the base period and for the base period as adjusted. Separate operating revenues by major rate component (e.g., reservation charges, demand charges, usage charges, commodity charges, injection charges, withdrawal charges, etc.) from revenues received from penalties, surcharges or other sources (e.g., ACA, GRI, transition costs). Show revenues by rate schedule and by receipt and delivery rate zones, if applicable. Show separately the revenues for firm services under contracts with a primary term of less than one year. For services provided through released capacity, identify total revenues by rate schedule and by receipt and delivery rate zones, if applicable.

(ii) *Credits.* Show the principal components comprising each of the various items which are reflected as credits to the cost-of-service in preparing Statement A, Overall Cost-of-service for the base period and the base period as adjusted. Any transition cost component of interruptible transportation revenue must not be treated as operating revenues as defined above.

(iii) *Billing Determinants.* Show total reservation and usage billing determinants for the base period and the base period as adjusted, by rate schedule by receipt and delivery rate zones, if applicable. Show separately the billing determinants for firm services under contracts with a primary term of less than one year. For services provided through released capacity, identify billing determinants by rate schedule and by receipt and delivery rate zones, if applicable.

(2) The Schedules G–1 through G–6 must be filed at the FERC and served on all state commissions having jurisdiction over the affected customers within fifteen days after the rate case is filed. Schedules G–1 through G–6 must also be served on parties that request such service within 15 days of the filing of the rate case.

(i) *Schedule G–1.* Base Period Revenues. For the base period, show total actual revenues and billing determinants by month by customer name, by rate schedule, by receipt and delivery zone, if applicable, by major rate component (*e.g.*, reservation charges) and totals. Billing determinants must not be adjusted for discounting. Provide actual throughput (i.e., usage or commodity quantities, unadjusted for discounting) and actual contract demand levels (unadjusted for discounting). Provide this information separately for firm service under contracts with a primary term of less than one year. Separate operating revenues from revenues received from surcharges or other sources (e.g., ACA, GRI, transition costs). Identify customers who are affiliates. Identify rate schedules under which costs are allocated and rate schedules under which revenues are credited for the base period with cross-references to the other filed statements and schedules.

(ii) *Schedule G–2.* Adjustment Period Revenues.

(A) Show revenues and billing determinants by month, by customer name, by rate schedule, by receipt and delivery zone, if applicable, by major rate component (e.g., reservation charges) and totals for the base period

adjusted for known and measurable changes which are expected to occur within the adjustment period computed under the rates expected to be charged. Billing determinants must not be adjusted for discounting. Provide projected throughput (i.e., usage or commodity quantities, unadjusted for discounting) and projected contract demand levels (unadjusted for discounting). Provide this information separately for firm service under contracts with a primary term of less than one year. Separate operating revenues from revenues received from surcharges or other sources (e.g., ACA, GRI, transition costs). Identify customers who are affiliates. Identify rate schedules under which costs are allocated and rate schedules under which revenues are credited for the adjustment period with cross-references to the other filed statements and schedules.

(B) Provide a reconciliation of the base period revenues and billing determinants and the revenues and billing determinants for the base period as adjusted.

(iii) *Schedule G–3.* Specify, quantify, and justify each proposed adjustment (capacity release, plant closure, contract termination, etc.) to base period actual billing determinants, and provide a detailed explanation for each factor contributing to the adjustment. Include references to any certificate docket authorizing changes. Submit workpapers with all formulae.

(iv) *Schedule G–4.* At-Risk Revenue. For each instance where there is a separate cost-of-service associated with facilities for which the applicant is ''at risk,'' show the base period and adjustment period revenue by customer or customer code, by rate schedule, by receipt and delivery zone, if applicable, and as 12-month totals. Provide this information by month unless otherwise agreed to by interested parties and if monthly reporting is consistent with past practice of the pipeline. However, if seasonal services are involved, or if billing determinants vary from month to month, the information must be provided monthly. Provide projected throughput (i.e., usage or commodity quantities, unadjusted for discounting) and projected contract demand levels (unadjusted for discounting).

(v) *Schedule G–5.* Other Revenues.

(A) Describe and quantify, by month, the types of revenue included in Account Nos. 490–495 for the base and test periods. Show revenues applicable to the sale of products. Show the principal components comprising each of the various items which are reflected as credits to cost-of-service in Statement A.

(B) To the extent the credits to the cost-of-service reflected in Statement A differ from the amounts shown on Schedule G–5, compare and reconcile the two statements. Quantify and explain each proposed adjustment to base period actuals. For Account No. 490, show the name and location of each product extraction plant processing gas for the applicant, and the inlet and outlet monthly dth of the pipeline's gas at each plant. Show the revenues received by the applicant by product by month for each extraction plant for the base period and proposed for the test period.

(C) Separately state each item and revenue received for the transportation of liquids, liquefiable hydrocarbon, or nonhydrocarbon constituents owned by shippers. For both the base and test periods, indicate by shipper contract: The quantity transported and the revenues received.

(D) Separately state the revenues received from the release by the pipeline of transportation and compression capacity it holds on other pipeline systems. The revenues must equal the revenues reflected on Schedule I–4(iv).

(vi) *Schedule G–6.* Miscellaneous Revenues. Separately state by month the base and adjustment period revenues and the associated quantities received as penalties from jurisdictional customers; the revenues received from cash outs and other imbalance adjustments; and, the revenues received from exit fees.

(k) *Statement H–1.* Operation and Maintenance Expenses. Show the gas operation and maintenance expenses according to each applicable account of the Commission's Uniform System of Accounts for Natural Gas Companies. Show the expenses under columnar headings, with subtotals for each functional classification, as follows: Operation and maintenance expense by months, as booked, for the 12 months of actual experience, and the 12-month total; adjustments, if any, to expenses as booked; and, total adjusted operation and maintenance expenses. Provide a detailed narrative explanation of, and the basis and supporting workpapers for, each adjustment. The following schedules and additional material must be submitted as part of Statement H–1:

(1) *Schedule H–1 (1).* This schedule is part of the workpapers. Show the labor costs, materials and other charges (excluding purchased gas costs) and expenses associated with Accounts 810, 811, and 812 recorded in each gas operation and maintenance expense account of the Uniform System of Accounts. Show these expenses, under the columnar headings, with subtotals for each functional classification, as follows: Operation and maintenance expenses by months, as booked, for the 12 months of actual experience, and the 12-month total; adjustments, if any, to expenses as booked; and total adjusted operation and maintenance expenses. Disclose and explain all accrual or other normalizing accounting entries for internal purposes reflected in the monthly expenses presented per book. Explain any amounts not currently payable, except depreciation charged through clearing accounts, included in operation and maintenance expenses.

(2) *Schedule H–1 (1)(a).* Labor Costs.

(3) *Schedule H–1 (1)(b).* Materials and Other Charges (Excluding Purchased Gas Costs and items shown in Schedule H–1 (1)(c)).

(4) *Schedule H–1 (1)(c).* Quantities Applicable to Accounts Nos. 810, 811, and 812. Show the quantities for each of the contra-accounts for both base and test periods.

(5) *Schedule H–1 (2).* This schedule is part of the workpapers. Show, for the 12 months of actual experience and claimed adjustments: A classification of principal charges, credits and volumes; particulars of supporting computations and accounting bases; a description of services and related dollar amounts for which liability is incurred or accrued; and, the name of the firm or individual rendering such services. Expenses reported in Schedules H–1 (2)(a) through H–1 (2)(k) of $100,000 or less per type of service may be grouped.

(6) *Schedule H–1 (2)(a).* Accounts 806, 808.1, 808.2, 809.1, 809.2, 813, 823, and any other account used to record fuel use or gas losses. Provide details of each type of expense.

(7) *Schedule H–1 (2)(b).* Accounts 913 and 930.1. Advertising Expenses. Disclose principal types of advertising such as TV, newspaper, etc.

(8) *Schedule H–1 (2)(c).* Account 921. Office Supplies and Expenses.

(9) *Schedule H–1 (2)(d).* Account 922. Administrative Expenses Transferred Credit.

(10) *Schedule H–1 (2)(e).* Account 923. Outside Services Employed.

(11) *Schedule H–1 (2)(f).* Account 926. Employee Pensions and Benefits.

(12) *Schedule H–1 (2)(g).* Account 928. Regulatory Commission Expenses.

(13) *Schedule H–1 (2)(h).* Account 929. Duplicate Charges. Credit.

(14) *Schedule H–1 (2)(i).* Account 930.2. Miscellaneous General Expenses.

(15) *Schedule H–1 (2)(j).* Intercompany and Interdepartmental Transactions. Provide a complete disclosure of all corporate overhead

allocated to the company. If the expense accounts contain charges or credits to and from associated or affiliated companies or nonutility departments of the company, submit a schedule, or schedules, as to each associated or affiliated company or nonutility department showing:

(i) The amount of the charges, or credits, during each month and in total for the base period and the adjustment period.

(ii) The FERC Account No. charged (or credited).

(iii) Descriptions of the specific services performed for, or by, the associated/affiliated company or nonutility department.

(iv) The bases used in determining the amounts of the charges (credits). Explain, document, and demonstrate the derivation of the allocation bases with underlying calculations used to allocate costs among affiliated companies, and identify (by account number) all costs paid to, or received from affiliated companies which are included in a pipeline's cost-of-service for both the base and test periods.

(16) *Schedule H–1 (2)(k).* Show all lease payments applicable to gas operation contained in the operation and maintenance accounts. Leases of $500,000 or less may be grouped by type of lease.

(l) *Statement H–2.* Depreciation, Depletion, Amortization and Negative Salvage Expenses. Show, separately, the gas plant depreciation, depletion, amortization, and negative salvage expenses by functional classifications. For each functional plant classification, show depreciation reserve associated with offshore and onshore plant separately. Show, in separate columns: expenses for the 12 months of actual experience; adjustments, if any, to such expense; and, the total adjusted expense claimed. Explain the bases, methods, essential computations, and derivation of unit rates for the calculation of depreciation, depletion, and amortization expense for the 12 months of actual experience and for the adjustments. The amounts of depreciable plant must be shown by the functions specified in paragraph C of Account 108, Accumulated Provisions for Depreciation of Gas Utility Plant, and Account 111, Accumulated Provision for Amortization and Depletion of Gas Utility Plant, of the Commission's Uniform System of Accounts for Natural Gas Companies, and, if available, for each detailed plant account (300 Series) together with the rates used in computing such expenses. Explain any deviation from the rates determined to be just and reasonable by the Commission. Show the rate or rates previously used together with supporting data for the new rate or rates used for this filing. The following schedule and additional material must be submitted as a part of Statement H–2:

(1) *Schedule H–2 (1).* Depreciable Plant.

(i) Reconcile the depreciable plant shown in Statement H–2 with the aggregate investment in gas plant shown in Statement C, and the expense charged to other than prescribed depreciation, depletion, amortization, and negative salvage expense accounts. Identify the amounts of plant costs and associated plant accounts used as the bases for depreciation expense charged to clearing accounts. For each functional plant classification, show depreciation reserve associated with offshore and onshore plant separately.

(ii) Schedule H–2 (1) must be updated, as set forth in § 154.310, with actual depreciable plant and reconciled with updated Statement C.

(m) *Statement H–3.* Income Taxes. Show the computation of allowances for Federal and State income taxes for the test period based on the claimed return applied to the overall gas utility rate base. To indicate the accounting classification applicable to the amount claimed, the computation of the Federal income tax allowance must show, separately, the amounts designated as current tax and deferred tax. Section 154.306, Tax Normalization, is incorporated in these instructions by reference. All the requirements of this section apply to Schedule H–3. The following schedules and additional material must be submitted as a part of Statement H–3:

(1) *Schedule H–3 (1).* This schedule is part of the workpapers. Show the income tax paid each State in the current and/or previous year covered by the test period.

(2) *Schedule H–3 (2).* This schedule is part of the workpapers. Show the computation of an updated reconciliation between book depreciable plant and tax depreciable plant and accumulated provision for deferred income taxes, for the base period or latest calendar or fiscal year (depending on the company's reporting period). Regulatory asset or liability net of deferred tax amounts should be included in this reconciliation. Also, separately state the gross amounts of the regulatory asset and liability.

(n) *Statement H–4.* Other Taxes. Show the gas utility taxes, other than Federal or state income taxes, in separate columns, as follows: Tax expense per books for the 12 months of actual experience (separately identify the amounts expensed or accrued during the period); adjustments, if any, to amounts booked; and, the total adjusted taxes claimed. Show the kind and amount of taxes paid under protest or in connection with taxes under litigation. Show taxes by state and by type of tax. The following schedules and additional material must be submitted as a part of Statement H–4:

(1) *Schedule H–4.* This schedule is part of the workpapers. Show the computations of adjusted taxes claimed in Statement H(4).

(o) *Statement I.* Statement I consists of the following Schedules:

(1) *Schedule I–1.* Functionalization of Cost-of-service. Show the overall cost-of-service contained in Statement A as supported by Statements B, C, D, E, G (revenue credits), and H:

(i) *Schedule I–1(a).* Separate overall cost-of-service by function of facility.

(ii) *Schedule I–1(b).* Separate the transmission, storage, and gathering facilities between incremental and non-incremental facilities. If the pipeline proposes to directly assign the costs of specific facilities, it must provide a separate cost-of-service for every directly assigned facility (e.g., lateral or storage field).

(iii) *Schedule I–1(c).* If the pipeline maintains records of costs by zone and proposes a zone rate methodology based on those costs separately state transmission, storage, and gathering costs, for each zone.

(iv) *Schedule I–1(d).* Show the method used to allocate common and joint costs to various functions. Provide the factors underlying the allocation of general costs (e.g., miles of pipe, cost of plant, labor). Show the formulae used and explain the bases for the allocation of common and joint costs.

(2) *Schedule I–2.* Classification of Cost-of-service.

(i) For each functionalized cost-of-service provided in Schedule I–1 (a), (b), and (c), show the classification of costs between fixed costs and variable costs and between reservation costs and usage costs. The classification must be for each element of the cost-of-service (e.g., depreciation expenses, state income taxes, revenue credits). For operation and maintenance expenses and revenue credits, the classification must be provided by account and by total.

(ii) Explain the basis for the classification of costs.

(iii) Explain any difference between the method for classifying costs and the classification method underlying the pipeline's currently effective rates.

(3) *Schedule I–3.* Allocation of Cost-of-service.

(i) If the company provides gas sales and transportation as a bundled service, show the allocation of costs between direct sales or distribution sales and the other services. If the company provides unbundled transportation, show the allocation of costs between services with cost-of-service rates and services with market-based rates, including products extraction, sales, and company-owned production. If the cost-of-service is allocated among rate zones, show how the classified cost-of-service is allocated among rate zones by function. If the pipeline proposes to establish rate zones for the first time, or to change existing rate zone boundaries, explain how the rate zone boundaries are established.

(ii) Show how the classified costs of service provided in Schedule I–2 or Schedule I–3 (i) are allocated among the pipeline's services and rate schedules.

(iii) Provide the formulae used in the allocation of the cost-of-service. Provide the factors underlying the allocation of the cost-of-service (e.g., contract demand, annual billing determinants, three-day peak). Provide the load factor or other basis for any imputed demand quantities.

(iv) Explain any changes in the basis for the allocation of the cost-of-service from the allocation methodologies underlying the currently effective rates.

(4) *Schedule I–4.* Transmission and Compression of Gas by Others (Account 858). Provide the following information for each transaction for the base and adjustment period:

(i) The name of the transporter.

(ii) The name of the rate schedule under which service is provided, and the expiration date of the contract.

(iii) Monthly usage volumes.

(iv) Monthly costs.

(v) The monthly revenues for volumes flowing under released capacity. The revenues in Schedule I–4 (iv) must also be reflected, separately, as a credit in Schedule G–5.

(5) *Schedule I–5.* Gas Balance. Show by months and total, for the 12 months of actual experience, the company's Gas Account, in the form required by FERC Form No. 2 pages 520 and 521. Show corresponding estimated data, if claimed to be different from actual experience. Provide the basis for any variation between estimated and actual base period data.

(p) *Statement J.* Comparison and Reconciliation of Estimated Operating Revenues With Cost-of-service. Compare the total revenues by rate schedule (Schedule G–2) to the allocated cost-of-service (Statement I). Identify any surcharges that are reflected in Statement N or in Statement I.

(1) *Schedule J–1.* Summary of Billing Determinants. Provide a summary of all billing determinants used to derive rates. Provide a reconciliation of customers' total billing determinants as shown on Schedule G–2 with those used to derive rates in Schedule J–2. Provide an explanation of how any discount adjustment is developed. If billing determinants are imputed for interruptible service, explain the method for calculating the billing determinants.

(2) *Schedule J–2.* Derivation of Rates. Show the derivation of each rate component of each rate. For each rate component of each rate schedule, include:

(i) A reference (by page, line, and column) to the allocated cost-of-service in Statement I.

(ii) A reference to the appropriate billing determinants in Schedule J–1.

(iii) Explain any changes in the method used for the derivation of rates from the method used in developing the underlying rates.

(q) *Statement K.* [Reserved]

(r) *Statement L.* Balance Sheet. Provide a balance sheet in the form prescribed by the Commission's Uniform System of Accounts for Natural Gas Companies as of the beginning and end of the base period. Include any notes. If the natural gas company is a member of a group of companies, also provide a balance sheet on a consolidated basis.

(s) *Statement M.* Income Statement. Provide an income statement, including a section on earnings, in the form prescribed by the Commission's Uniform System of Accounts for Natural Gas Companies for the base period. Include any notes. If the natural gas company is a member of a system group of companies, provide an income statement on a consolidated basis.

(t) *Statement N.* [Reserved]

(u) *Statement O.* Description of Company Operations. Provide a description of the company's service area and diversity of operations. Include the following:

(1) Only if significant changes have occurred since the filing of the last FERC Form No. 2 or 2–A, provide a detailed system map.

(2) A list of each major expansion and abandonment since the company's last general rate case. Provide brief descriptions, approximate dates of operation or retirement from service, and costs classified by functions.

(3) A detailed description of how the company designs and operates its systems. Include design temperature.

(v) *Statement P.* Explanatory Text and Prepared Testimony. Provide copies of prepared testimony indicating the line of proof which the company would offer for its case-in-chief in the event that the rates are suspended and the matter set for hearing. Name the sponsoring witness of all text and testimony. Statement P must be filed concurrently with the other schedules.

§ 154.313 Schedules for minor rate changes.

(a) A change in a rate or charge that, for the test period, does not increase the company's revenues by the smaller of $1,000,000 or 5 percent is a minor rate change. A change in a rate level that does not directly or indirectly result in an increased rate or charge to any customer or class of customers is a minor rate change.

(b) In addition to the schedules in this section, filings for minor rate changes must include Statements L, M, O, P, I–1 through I–4, and J of § 154.312.

(c) The schedules of this section must contain the principal determinants essential to test the reasonableness of the proposed minor rate change. Any adjustments to book figures must be separately stated and the basis for the adjustment must be explained.

(d) Schedules B–1, B–2, C, D, E, H, H–2, and H–4 of § 154.313, must be updated with actual data by month and must be resubmitted in the same format and with consecutive 12 month running totals, for each month of the adjustment period. The updated statements or schedules must be filed 45 days after the end of the test period. The updated filing must reference the associated docket number and must be filed in the same format, form, and number as the original filing.

(e) Composition of schedules for minor rate changes.

(1) *Schedule A.* Overall Cost-of-service by Function. Summarize the overall cost-of-service (operation and maintenance expenses, depreciation, taxes, return, and credits to cost-of-service) developed from the supporting schedules below.

(2) *Schedule B.* Overall Rate Base and Return. Summarize the overall gas utility rate base by function. Include the claimed rate of return and show the application of the claimed rate of return to the overall rate base.

(3) *Schedule B–1.* Accumulated Deferred Income Taxes (Account Nos. 190, 281, 282, and 283). Show monthly book balances of accumulated deferred income taxes for each of the 12 months during the base period. In adjoining columns, show additions and reductions for the adjustment period balance and the total adjusted balance.

(4) *Schedule B–2.* Regulatory Asset and Liability. Show monthly book balances of regulatory asset (Account 182.3) and liability (Account 254) for each of the 12 months during the base period. In adjoining columns, show additions and reductions for the adjustment period balance and the total adjusted balance. Only include these accounts if recovery of these balances are reflected in the company's costs. Identify the specific Commission authority which required the establishment of these accounts.

(5) *Schedule C.* Cost of Plant by Functional Classification as of the End of the Base and Adjustment Periods.

(6) *Schedule D.* Accumulated Provisions for Depreciation, Depletion, Amortization, and Abandonment by Functional Classifications as of the Beginning and as of the End of the Test Period.

(7) *Schedule E.* Working Capital. Show the various components provided for in § 154.312, Statement E.

(8) *Schedule F.* Show the rate of return claimed with a brief explanation of the basis.

(9) *Schedule G.* Revenues and Billing Determinants.

(i) Show in summary format the information requested below on revenues and billing determinants for the base period and the base period as adjusted. Schedule G must be submitted to all customers of the pipeline that received service during the base period or are expected to receive service during the base period as adjusted and on State commissions having jurisdiction over the affected customers.

(A) *Revenues.* Provide the total revenues by rate schedule from jurisdictional services, classified in accordance with the Commission's Uniform System of Accounts for the base period and for the base period as adjusted. Separate operating revenues by major rate component (e.g., reservation charges, demand charges, usage charges, commodity charges, injection charges, withdrawal charges, etc.) from revenues received from penalties, surcharges or other sources (e.g., ACA, GRI, transition costs). For services provided through released capacity, identify total revenues by rate schedule and by receipt and delivery rate zones, if applicable.

(B) *Billing Determinants.* Show total reservation and usage billing determinants by rate schedule for the base period and the base period as adjusted. For services provided through released capacity, identify total billing determinants by rate schedule and by receipt and delivery rate zones, if applicable.

(ii) Schedule G–1 must be filed at the Commission and on all state commissions having jurisdiction over the affected customers within 15 days after the rate case is filed. Schedule G–1 must also be served on parties that request such service within 15 days of the filing of the rate case.

(A) *Schedule G–1.* Adjustment Period Revenues.

(*1*) Show revenues and billing determinants by month, by customer name, by rate schedule, by major rate component (e.g., reservation charges) and totals for the base period adjusted for known and measurable changes which are expected to occur within the adjustment period computed under the rates expected to be charged. Show commodity billing determinants by rate schedule. Billing determinants must not be adjusted for discounting. Provide projected throughput (i.e., usage or commodity quantities, unadjusted for discounting) and projected contract demand levels (unadjusted for discounting). Separate operating revenues from revenues received from surcharges or other sources (e.g., ACA, GRI, transition costs). Identify customers who are affiliates. Identify rate schedules under which costs are allocated and rate schedules under which revenues are credited for the adjustment period with cross-references to the other filed statements and schedules.

(*2*) Provide a reconciliation of the base period revenues and billing determinants and the revenues and billing determinants for the base period as adjusted.

(10) *Schedule H.* Operation and Maintenance Expenses. Show the gas operation and maintenance expenses according to each applicable account of the Commission's Uniform System of Accounts for Natural Gas Companies. The expenses must be shown under appropriate columnar-headings, by labor, materials and other charges, and purchased gas costs, with subtotals for each functional classification: Operation and maintenance expense by months, as booked, for the 12 months of actual experience, and the total thereof; adjustments, if any, to expenses as booked; and, total adjusted operation and maintenance expenses claimed. Explain all adjustments. Specify the month or months during which the adjustments would be applicable.

(11) *Schedule H–1.* Workpapers for Expense Accounts. Furnish workpapers for the 12 months of actual experience and claimed adjustments and analytical details as set forth in § 154.312, Schedule H–1 (3).

(12) *Schedule H–2.* Depreciation, Depletion, Amortization and Negative Salvage Expenses. Show, separately, the gas plant depreciation, depletion, amortization, and negative salvage expenses by functional classifications. For each functional plant classification, show depreciation reserve associated with offshore and onshore plant separately. The bases, methods, essential computations, and derivation of unit rates for the calculation of depreciation, depletion, amortization, and negative salvage expenses for actual experience must be explained.

(13) *Schedule H–3.* Income Tax Allowances Computed on the Basis of the Rate of Return Claimed. Show the computation of allowances for Federal and State income taxes based on the claimed return applied to the overall gas utility rate base.

(14) *Schedule H–3 (1).* This schedule is part of the workpapers. Show the computation of an updated reconciliation between book depreciable plant and tax depreciable plant and accumulated provision for deferred income taxes, for the base period or latest calendar or fiscal year (depending on the company's reporting period).

(15) *Schedule H–4.* Other Taxes. Show the gas utility taxes, other than Federal or state income taxes in separate columns, as follows: Tax expense per books for the 12 months of actual experience;) adjustments, if any, to amounts booked; and, the total adjusted taxes claimed. Provide the details of the kind and amount of taxes paid under protest or in connection with taxes under litigation. The taxes must be shown by states and by kind of taxes. Explain all adjustments.

§ 154.314 Other support for a filing.

(a) Any company filing for a rate change is responsible for preparing prior to filing, and maintaining, workpapers sufficient to support the filing.

(b) If the natural gas company has relied upon data other than those in Statements A through P in § 154.312 in support of its general rate change, such other data must be identified and submitted.

Subpart E—Limited Rate Changes

§ 154.400 Additional requirements.

In addition to the requirements of subparts A, B, and C of this part, any proposal to implement a limited rate change must comply with this subpart.

§ 154.401 RD&D expenditures.

(a) *Requirements.* Upon approval by the Commission, a natural gas company may file to recover research,

development, and demonstration (RD&D) expenditures in its rates under this subpart.

(b) *Applications for rate treatment approval.* (1) An application for advance approval of rate treatment may be filed by a natural gas company for RD&D expenditures related to a project or group of projects undertaken by the company or as part of a project undertaken by others. When more than one company supports an RD&D organization, the RD&D organization may submit an application that covers the organization's RD&D program. Approval by the Commission of such an RD&D application and program will constitute approval of the individual companies' contributions to the RD&D organization.

(2) An application for advance approval of rate treatment must include a 5-year program plan and must be filed at least 180 days prior to the commencement of the 5-year period of the plan.

(3) A 5-year program plan must include at a minimum:

(i) A statement of the objectives for the 5-year period that relates the objectives to the interests of ratepayers, the public, and the industry and to the objectives of other major research organizations.

(ii) Budget, technical, and schedule information in sufficient detail to explain the work to be performed and allow an assessment of the probability of success and a comparison with other organizations' research plans.

(iii) The commencement date, expected termination date, and expected annual costs for individual RD&D projects to be initiated during the first year of the plan.

(iv) A discussion of the RD&D efforts and progress since the preparation of the program plan submitted the previous year and an explanation of any changes that have been made in objectives, priorities, or budgets since the plan of the previous year.

(v) A statement identifying all jurisdictional natural gas companies that will support the program and specifying the amounts of their budgeted support.

(vi) A statement identifying those persons involved in the development, review, and approval of the plan and specifying the amount of effort contributed and the degree of control exercised by each.

(c) Applications must describe the RD&D projects in such detail as to satisfy the Commission that the RD&D expenditures qualify as valid, justifiable, and reasonable.

(d) Within 120 days of the filing of an application for rate treatment approval and a 5-year program plan, the Commission will state its decision with respect to acceptance, partial acceptance, or rejection of the plan, or, when the complexity of issues in the plan so requires, will set a date certain by which a final decision will be made, or will order the matter set for hearing. Partial rejection of a plan by the Commission will be accompanied by a decision as to the partial level of acceptance which will be proportionally applied to all contributions listed for jurisdictional companies in the plan. Approval by the Commission of a 5-year plan constitutes approval for rate treatment of all projects identified as starting during the first year of the approved plan. Continued rate treatment will depend upon review and evaluation of subsequent annual applications and 5-year program plans.

§ 154.402 ACA expenditures.

(a) *Requirements.* Upon approval by the Commission, a natural gas pipeline company may adjust its rates, annually, to recover from its customers annual charges assessed by the Commission under part 382 of this chapter pursuant to an annual charge adjustment clause (ACA clause). The ACA clause must be filed with the Commission and indicate the amount of annual charges to be flowed through per unit of energy sold or transported (ACA unit charge). The ACA unit charge will be specified by the Commission at the time the Commission calculates the annual charge bills. A company must reflect the ACA unit charge in each of its rate schedules applicable to sales or transportation deliveries. The company must apply the ACA unit charge to the usage component of rate schedules with two-part rates. A company may recover annual charges through an ACA unit charge only if its rates do not otherwise reflect the costs of annual charges assessed by the Commission under § 382.106(a) of this chapter. The applicable annual charge, required by § 382.103 of this chapter, must be paid before the company applies the ACA unit charge.

(b) *Application for Rate Treatment Authorization.* A company seeking authorization to use an ACA unit charge must file with the Commission a separate ACA tariff sheet containing:

(1) A statement that the company is collecting an ACA per unit charge, as approved by the Commission, applicable to all the pipeline's sales and transportation schedules,

(2) The per unit charge of the ACA,

(3) The proposed effective date of the tariff change (30 days after the filing of the tariff sheet, unless a shorter period is specifically requested in a waiver petition and approved), and

(4) A statement that the pipeline will not recover any annual charges recorded in FERC Account 928 in a proceeding under subpart D of this part.

(c) Changes to the ACA unit charge must be filed annually, to reflect the annual charge unit rate authorized by the Commission each fiscal year.

§ 154.403 Periodic rate adjustments.

(a) This section applies to the passthrough, on a periodic basis, of a single cost item or revenue item for which passthrough is not regulated under another section of this subpart, and to revisions on a periodic basis of a gas reimbursement percentage.

(b) Where a pipeline recovers fuel use and unaccounted-for natural gas in kind, the fuel reimbursement percentage must be stated in the tariff either on the tariff sheet stating the currently effective rate or on a separate tariff sheet in such a way that it is clear what amount of natural gas must be tendered in kind for each service rendered.

(c) A natural gas company that passes through a cost or revenue item or adjusts its fuel reimbursement percentage under this section, must state within the general terms and conditions of its tariff, the methodology and timing of any adjustments. The following must be included in the general terms and conditions:

(1) A statement of the nature of the revenue or costs to be flowed through to the customer;

(2) A statement of the manner in which the cost or revenue will be collected or returned, whether through a surcharge, offset, or otherwise;

(3) A statement of which customers are recipients of the revenue credit and which rate schedules are subject to the cost or fuel reimbursement percentage;

(4) A statement of the frequency of the adjustment and the dates on which the adjustment will become effective;

(5) A step-by-step description of the manner in which the amount to be flowed through is calculated and a step-by-step description of the flowthrough mechanism, including how the costs are classified and allocated. Where the adjustment modifies a rate established under subpart D of this part, the methodology must be consistent with the methodology used in the proceeding under subpart D of this part;

(6) Where costs or revenue credits are accumulated over a past period for periodic recovery or return, the past period must be defined and the

mechanism for the recovery or return must be detailed on a step-by-step basis. Where the natural gas company proposes to use a surcharge to clear an account in which the difference between costs or revenues, recovered through rates, and actual costs and revenues accumulate, a statement must be included detailing, on a step-by-step basis, the mechanism for calculating the entries to the account and for passing through the account balance.

(7) Where carrying charges are computed, the calculations must be consistent with the methodology and reporting requirements set forth in § 154.501 using the carrying charge rate required by that section. A natural gas company must normalize all income tax timing differences which are the result of differences between the period in which expense or revenue enters into the determination of taxable income and the period in which the expense or revenue enters into the determination of pre-tax book income. Any balance upon which the natural gas company calculates carrying charges must be adjusted for any recorded deferred income taxes.

(8) Where the natural gas company discounts the rate component calculated pursuant to this section, explain on a step-by-step basis how the natural gas company will adjust for rate discounts in its methodology to reflect changes in costs under this section.

(9) If the costs passed through under a mechanism approved under this section are billed by an upstream natural gas company, explain how refunds received from upstream natural gas companies will be passed through to the natural gas company's customers, including the allocation and classification of such refunds;

(10) A step-by-step explanation of the methodology used to reflect changes in the fuel reimbursement percentage, including the allocation and classification of the fuel use and unaccounted-for natural gas. Where the adjustment modifies a fuel reimbursement percentage established under subpart D of this part, the methodology must be consistent with the methodology used in the proceeding under subpart D of this part;

(11) A statement of whether the difference between quantities actually used or lost and the quantities retained from the customers for fuel use and loss will be recovered or returned in a future surcharge. Include a step-by-step explanation of the methodology used to calculate such surcharge. Any period during which these differences accumulate must be defined.

(d) *Filing requirements.*

(1) Filings under this section must include:

(i) A summary statement showing the rate component added to each rate schedule with workpapers showing all mathematical calculations.

(ii) If the filing establishes a new fuel reimbursement percentage or surcharge, include computations for each fuel reimbursement or surcharge calculated, broken out by service, classification, area, zone, or other subcategory.

(iii) Workpapers showing the allocation of costs or revenue credits by rate schedule and step-by-step computations supporting the allocation, segregated into reservation and usage amounts, where appropriate.

(iv) Where the costs, revenues, rates, quantities, indices, load factors, percentages, or other numbers used in the calculations are publicly available, include references by source.

(v) Where a rate or quantity underlying the costs or revenue credits is supported by publicly available data (such as another natural gas company's tariff or EBB), the source must be referenced to allow the Commission and interested parties to review the source. If the rate or quantity does not match the rate or quantity from the source referenced, provide step-by-step instructions to tie the rate in the referenced source to the rate in the filing.

(vi) Where a number is derived from another number by applying a load factor, percentage, or other adjusting factor not referenced in paragraph (d)(1)(i) of this section, include workpapers and a narrative to explain the calculation of the adjusting factor.

(2) If the natural gas company is adjusting its rates to reflect changes in transportation and compression costs paid to others:

(i) The changes in transportation and compression costs must be based on the rate on file with the Commission. If the rate is not on file with the Commission or a discounted rate is paid, the rate reflected in the filing must be the rate the natural gas company is contractually obligated to pay;

(ii) The filing must include appropriate credits for capacity released under § 284.243 of this chapter with workpapers showing the quantity released, the revenues received from the release, the time period of the release, and the natural gas pipeline on which the release took place; and,

(iii) The filing must include a statement of the refunds received from each upstream natural gas company which are included in the rate adjustment. The statement must conform to the requirements set forth in § 154.501.

(3) If the natural gas company is reflecting changes in its fuel reimbursement percentage, the filing must include:

(i) A summary statement of actual gas inflows and outflows for each month used to calculate the fuel reimbursement percentage or surcharge. For purposes of establishing the surcharge, the summary statement must be included for each month of the period over which the differences defined in paragraph (c) of this section accumulate.

(ii) Where the fuel reimbursement percentage is calculated based on estimated activity over a future period, the period must be defined and the estimates used in the calculation must be justified. If any of the estimates are publicly available, include a reference to the source.

(4) The natural gas company must not recover costs and is not obligated to return revenues which are applicable to the period pre-dating the effectiveness of the tariff language setting forth the periodic rate change mechanism, unless permitted or required to do so by the Commission.

Subpart F—Refunds and Reports

§ 154.501 Refunds.

(a) *Refund obligation.* (1) Any natural gas company that collects rates or charges pursuant to this chapter must refund that portion of any increased rates or charges either found by the Commission not to be justified, or approved for refund by the Commission as part of a settlement, together with interest as required in paragraph (d) of this section. The refund plus interest must be distributed as specified in the Commission order requiring or approving the refund, or if no date is specified, within 60 days of the order. However, the pipeline is not required to make any refund until it has collected the refundable money through its rates.

(2) Any natural gas company must refund to its jurisdictional customers the jurisdictional portion of any refund it receives which is required by prior Commission order to be flowed through to its jurisdictional customers or represents the refund of an amount previously included in a filing under § 154.403 and charged and collected from jurisdictional customers within thirty days of receipt or other time period established by the Commission or as established in the pipeline's tariff.

(b) *Costs of Refunding.* Any natural gas company required to make refunds

pursuant to this section must bear all costs of such refunding.

(c) *Supplier Refunds.* The jurisdictional portion of supplier refunds (including interest received), applicable to periods in which a purchased gas adjustment clause was in effect, must be flowed through to the natural gas company's jurisdictional gas sales customers during that period with interest as computed in paragraph (d) of this section.

(d) *Interest on Refunds.* Interest on the refund balance must be computed from the date of collection from the customer until the date refunds are made as follows:

(1) At an average prime rate for each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates and charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter must be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin, or in the Federal Reserve's ''Selected Interest Rates'' (Statistical Release G, 13), for the fourth, third, and second months preceding the first month of the calendar quarter.

(2) The interest required to be paid under paragraph (d)(1) of this section must be compounded quarterly.

(3) The refund balance must be either:

(i) The revenues resulting from the collection of the portion of any increased rates or charges found by the Commission not to be justified; or

(ii) An amount agreed upon in a settlement approved by the Commission; or

(iii) The jurisdictional portion of a refund the natural gas company receives.

(e) Unless otherwise provided by the order, settlement or tariff provision requiring the refund, the natural gas company must file a report of refunds, within 30 days of the date the refund was made, which complies with § 154.502 and includes the following:

(1) Workpapers and a narrative sufficient to show how the refunds for jurisdictional services were calculated;

(2) Workpapers and a narrative sufficient to determine the origin of the refund, including step-by-step calculations showing the derivation of the refund amount described in paragraph (d)(3) of this section, if necessary;

(3) References to any publicly available sources which confirm the rates, quantities, or costs, which are used to calculate the refund balance or which confirm the refund amount itself. If the rate, quantity, cost or refund does not directly tie to the source, a workpaper must be included to show the reconciliation between the rate, quantity, cost, or refund in the natural gas company's report and the corresponding rate, quantity, cost or refund in the source document;

(4) Workpapers showing the calculation of interest on a monthly basis, including how the carrying charges were compounded quarterly;

(5) Workpapers and a narrative explaining how the refund was allocated to each jurisdictional customer. Where the numbers used to support the allocation are publicly available, a reference to the source must be included. Where the allocation methodology has been approved previously, a reference to the order or tariff provision approving the allocation methodology must be included.

(6) A letter of transmittal containing:

(i) A list of the material enclosed;

(ii) The name and telephone number of a company official who can answer questions regarding the filing;

(iii) A statement of the date the refund was disbursed;

(iv) A reference to the authority by which the refund is made, including the specific subpart of these regulations, an order of the Commission, a provision of the company's tariff, or any other appropriate authority. If a Commission order is referenced, include the citation to the FERC Reports, the date of issuance, and the docket number;

(v) Any requests for waiver. Requests must include a reference to the specific section of the statute, regulations, or the company's tariff from which waiver is sought, and a justification for the waiver.

(7) A certification of service to all affected customers and interested state commissions.

(f) Each report filed under paragraph (e) of this section must be posted no later than the date of filing. Each report must be posted to all recipients of a share of the refund and all state commissions whose jurisdiction includes the location of any recipient of a refund share that have made a standing request for such full report.

(g) Recipients of refunds and state commissions that have not made a standing request for such full report shall receive an abbreviated report consisting of the items listed in § 154.501 (e)(5) and (e)(6).

§ 154.502 Reports.

(a) When the natural gas company is required, either by a Commission order or as a part of a settlement in a proceeding initiated under this part 154 or part 284 of this chapter, to make a report on a periodic basis, details about the nature and contents of the report must be provided in an appropriate section of the general terms and conditions of its tariff.

(b) The details in the general terms and conditions of the tariff must include the frequency and timing of the report. Explain whether the report is filed annually, semi-annually, monthly, or is triggered by an event. If triggered by an event, explain how soon after the event the report must be filed. If the report is periodic, state the dates on which the report must be filed.

(c) Each report must include:

(1) A letter of transmittal containing:

(i) A list of the material enclosed;

(ii) The name and telephone number of a company official who can answer questions regarding the filing;

(iii) A reference to the authority by which the report is made, including the specific subpart of these regulations, an order of the Commission, a provision of the company's tariff, or any other appropriate authority. If a Commission order is referenced, include the citation to the FERC Reports, the date of issuance, and the docket number;

(iv) Any requests for waiver. Requests must include a reference to the specific section of the statute, regulations, or the company's tariff from which waiver is sought, and a justification for the waiver.

(2) A certification of service to all affected customers and interested state commissions.

(d) Each report filed under paragraph (b) of this section must be posted no later than the date of filing.

Subpart G—Other Tariff Changes

§ 154.600 Compliance with other subparts.

Any proposal to implement a tariff change other than in rate level must comply with subparts A, B, and C of this part.

§ 154.601 Change in executed service agreement.

Agreements intended to effect a change or revision of an executed service agreement on file with the Commission must be in the form of a superseding executed service agreement only. Service agreements may not contain any supplements, but may contain exhibits which may be separately superseded. The exhibits may show, among other things, contract demand delivery points, delivery pressures, names of industrial customers of the distributor-customer, or names of distributors (with one distributor named as agent where delivery to several distributors is effected at the same delivery points).

§ 154.602 Cancellation or termination of a tariff, executed service agreement or part thereof.

When an effective tariff, contract, or part thereof on file with the Commission, is proposed to be canceled or is to terminate by its own terms and no new tariff, executed service agreement, or part thereof, is to be filed in its place, the natural gas company must notify the Commission of the proposed cancellation or termination on the form indicated in § 250.2 or § 250.3 of this chapter, whichever is applicable, at least 30 days prior to the proposed effective date of such cancellation or termination. With such notice, the company must submit a statement showing the reasons for the cancellation or termination, a list of the affected customers and the contract demand provided to the customers under the service to be canceled. A copy of the notice must be duly posted.

§ 154.603 Adoption of the tariff by a successor.

Whenever the tariff or contracts of a natural gas company on file with the Commission are to be adopted by another company or person as a result of an acquisition, or merger, authorized by a certificate of public convenience and necessity, or for any other reason, the succeeding company must file with the Commission, and post within 30 days after such succession, a certificate of adoption on the form prescribed in § 250.4 of this chapter. Within 90 days after such notice is filed, the succeeding company must file a revised tariff with the sheets bearing the name of the successor company.

Note: These appendices will not be published in the Code of Federal Regulations.

APPENDIX A

Prior regulation	Revised regulation
§ 154.1	§ 154.1, § 154.4.
§ 154.11	§ 154.2(e).
§ 154.12	§ 154.2(a).
§ 154.13	§ 154.2(c).
§ 154.14	§ 154.2(b).
§ 154.15	§ 154.2(f).
§ 154.16	§ 154.2(d).
§ 154.21	§ 154.3.
§ 154.22	§ 154.1(c), § 154.207.
§ 154.23	§ 154.6.
§ 154.24	§ 154.6.
§ 154.25	§ 154.8.
§ 154.26	§ 154.4.
§ 154.27	§ 154.210.
§ 154.28	§ 154.209.
§ 154.31	Removed.
§ 154.32	§ 154.101.
§ 154.33	§ 154.102.
§ 154.34	§ 154.103.
§ 154.35	§ 154.104.
§ 154.36	§ 154.105.
§ 154.37	§ 154.106.
§ 154.38(d)(1)	§ 154.107.
§ 154.38(d)(2)	§ 154.107.
§ 154.38(d)(3)	§ 154.3.
§ 154.38(d)(4)	§ 154.501.
§ 154.38(d)(5)	§ 154.401.
§ 154.38(d)(6)	§ 154.402.
§ 154.38(e)	Deleted.
§ 154.38	§ 154.108.
§ 154.39	§ 154.109.
§ 154.40	§ 154.110.
§ 154.41	§ 154.111.
§ 154.42	Removed.
§ 154.51	§ 154.207.
§ 154.52	§ 154.112.
§ 154.61	Removed.
§ 154.62	§ 154.202.
§ 154.63(b)(1)	§ 154.7.
§ 154.63(b)(1)(v)	§ 154.201(a).
§ 154.63(c)(1)	§ 154.302.
§ 154.63(c)(2)	§ 154.302.
§ 154.63(c)(3)	§ 154.314.
§ 154.63(d)(2)	§ 154.601.
§ 154.63(e)(1)	§ 154.301(c).
§ 154.63(e)(2)(i)	§ 154.303.
§ 154.63(e)(2)(ii)	§ 154.303.
§ 154.63(e)(3)	§ 154.307.
§ 154.63(e)(4)	§ 154.304, § 154.201(b)(3)
§ 154.63(e)(5)	§ 154.308.
§ 154.63(f)	§ 154.312.
§ 154.63a	§ 154.305.
§ 154.63b	§ 154.306.
§ 154.64	§ 154.602.
§ 154.65	§ 154.603.
§ 154.66	§ 154.205.
§ 154.67	§ 154.206.
§ 154.67(b)	Deleted.
§ 154.67(c)	§ 154.501.

New sections of part 154: 203, 204, 208, 301, 309, 310, 311, 313, 314, 403, 502.

APPENDIX B

Commenters to Docket No. RM95–3–000

American Forest and Paper Association	American Forest.
American Gas Association	AGA.
American Public Gas Association	APGA.
ANR Pipeline/Colorado Interstate Gas Co	ANR/CIG.
Application Solutions & Technologies Inc	ASTI.
Arizona Direct Customers (Arizona Public Service Co./Phelps Dodge Corp./Salt River Agric. Improvement and Power District).	Arizona Directs.
Associated Gas Distributors	AGD.
Association of Texas Intrastate Natural Gas Pipelines	Texas Intrastates.
Brooklyn Union Gas	Brooklyn Union.
Cascade Natural Gas Corp/Northwest Natural Gas Corp/Washington Natural Gas Co./Washington Water Power Co./Northwest Industrial Gas Users.	Pacific Northwest Commenters.
Chevron, U.S.A	Chevron.
CINergy Corp (Cincinnati Gas & Electric/The Union Light, Heat and Power Company/Lawrencebury Gas Company).	CINergy.
CNG Transmission Corp	CNG.
Columbia Gas Distribution Companies	Columbia Distribution.
Columbia Gas Transmission/Columbia Gulf Transmission	Columbia.
Consumers Power Co./Michigan Gas Storage Co	Consumers Power.
Electronic Bulletin Board Working Group	EBB Working Group.
El Paso Natural Gas Co	El Paso.
Enogex Inc	Enogex.
Enron Interstate Pipelines (Northern Natural Gas Co./Transwestern Pipeline Co./Florida Gas Trans. Co./Black Marlin Pipeline Co.).	Enron.
Equitable Gas Storage	Equitable.
Foothills Pipe Lines, Ltd./Alaskan Northwest Natural Gas Transportation Company	Foothills.
Freeport Interstate Pipeline Co	Freeport.
Gaslantic Corp	Gaslantic.
Great Lakes Gas Transmission Limited Partnership	Great Lakes.
Independent Petroleum Association of America	IPAA.

APPENDIX B—Continued

Commenters to Docket No. RM95–3–000

Interstate Natural Gas Association of America	INGAA.
JMC Power Projects	JMC.
KN Interstate Gas Transmission	KNI.
KN Energy	KN.
Kern River Gas Transmission Company	Kern River.
LDC Caucus	LDC Caucus.
Michigan Public Service Commission/State of Michigan	Michigan.
MidCon Corp., Natural Gas Pipeline Corp, MidCon Gas Services Corp	MidCon.
Mississippi River Transmission Co	MRT.
NorAM Gas Transmission Co	NGT.
Missouri Public Service Commission	MoPSC.
National Fuel Gas Supply Corp	National Fuel.
National Registry of Capacity Rights	Registry.
Natural Gas Supply Association	NGSA.
Northern Border Pipeline Company	Northern Border.
Northern Distributor Group	NDG.
Northwest Pipeline Corp/Williams Natural Gas Co	Williams.
Panhandle Eastern Pipeline/Trunkline Gas Company/Texas Eastern Transmission/Algonquin Gas Transmission.	Panhandle.
Pacific Gas and Electric Company	PG&E.
Process Gas Consumers Group/American Iron & Steel Inst. Georgia Industrial Group	Industrials.
Producer-Marketer Transportation Group	PMTG.
Public Service Commission of Nevada	Nevada.
Public Service Commission of the State of New York	New York.
Southern California Gas Company	SoCal.
Tennessee Gas Pipeline/Midwestern Gas Transmission/East Tennessee Natural Gas	Tennessee.
Texas Gas Transmission Corp	Texas Gas.
TransCanada PipeLines Ltd	TransCanada.
Transcontinental Gas Pipeline Corp	Transco.
Transok, Inc.	Transok.
United Distribution Companies	UDC.
United States Department of Energy	USDOE.
M.H. Whittier Corp	Whittier.
Williston Basin Interstate Pipeline Company	Williston.
Williams Natural Gas Co	Williams.

Appendix C—Tariff Filing Formats

Explanation of Changes

Background

On June 8, 1989, we issued the ''Notice of availability of record formats and hard copy filing formats for certificate and tariff filings'' in Docket No. RM87–17–000. On August 31, 1989, we issued a revision entitled ''Notice of availability of print software and corrected formats for rate, tariff, and certificate filings''. On February 28, 1990, we issued the ''Notice of Tariff Retrieval System Software Availability,'' otherwise referred to as the FASTR software package.

The following document includes updated electronic tariff filing formats as well as the revised tariff pagination guidelines that was mailed to most gas pipeline companies on May 13, 1992, modified only for readability. The revised formats take into consideration improvements in the FASTR software which reads the tariff ASCII files submitted by the companies to the Commission. Companies are strongly encouraged to use the FASTR software to (1) maintain their own tariff database, (2) generate the paper copies of the tariff sheets submitted with filings, and (3) pre-check the electronic tariff filings for errors prior to submittal.

Summary of Changes

• References to the requirement that all companies must restate their tariffs electronically with the filing of a rate case or restatement of base rates after October 31, 1989, has been removed. All companies who have not yet restated their paper tariffs electronically must do so on or before 120 days after the date of issuance of a final rule in Docket No. RM95–3–000;

• Electronic filings must be submitted on diskette, preferably a 3.5″ High Density diskette. The Commission will no longer accept tariff sheets filed on 9-track tape or 18-track cartridge. This modification will not be burdensome since it is very rare for the Commission to receive tariff sheets now on anything but diskette;

• Standard Form 277 is no longer required (Transmittal Form for Describing Computer Magnetic Tape File Properties) since we are requiring all tariff sheets to be filed on diskette;

• The Company Header Record (TF01) and Tariff Volume Header Record (TF02) should be included only once per filing, dataset, and tariff volume.

• The Superseded Sheet Header Record, (TF04) can be omitted with ''Original'' sheets. The Issuing Officer Header Record, (TF05) and The Date and Docket Header Record, (TF06) are required only with the first sheet, unless this information changes on a subsequent sheet in the dataset. Previously this information was required for every sheet. Companies may still report these records with every sheet if complying with this new requirement necessitates a change to the company's data-entry software. The intent of this change was to reduce the burden on those companies who must key in the information required in these records for each sheet.

• Exhibit A, Magnetic Tape Procedures is removed since we no longer accept tariff sheets on magnetic tape. Diskette Filing Procedures are moved from Exhibit B to Exhibit A.

• Tariff Sheet Pagination Guidelines are moved to Exhibit B from Exhibit C. Examples demonstrating the tariff sheet pagination guidelines are added to assist companies applying the guidelines.

• Certain editorial changes have been made for clarity.

Natural Gas Pipeline Company Tariff Filings

Revised

Docket No. RM

This Document Replaces the Tariff Filing Record Formats Issued August 31, 1989

General Information

I. Purpose

All companies which maintain a gas tariff with the Federal Energy Regulatory Commission (FERC) are required to submit, along with the paper copies, an electronic version of all tariff filings pursuant to section 385.2011 of the Commission's regulations. Companies are required to have an electronic version of their entire gas tariff (excluding Volume No. 2 contractual rate schedules) on

file with FERC on or before 120 days after the issuance of a final rule in Docket No. RM95–3–000. This form does not modify the existing tariff sheet format required in section 154.102 or section 385.2003 for tariff sheets filed on paper. Nor does it modify the requirement in section 154.201(a) to file a marked paper version of the pages to be changed by showing additions and deletions using highlighting, background shading, bold text, or underlined text.

II. Who Must File

All companies who are required to maintain a FERC Gas Tariff on file with the FERC.

III. What To Submit

All proposed revisions to the FERC Gas Tariff will be submitted in conformance with this form. Such proposed revisions include, but are not limited to, rate changes pursuant to a Section 4 filing or changes in service pursuant to a certificate issued as a result of a section 7 proceeding. Upon request of the Secretary of the FERC, companies must submit such additional supporting and clarifying data and information as may be specified.

All data will be submitted on diskette(s), preferably 3.5″ High Density diskettes, and must conform to the specific instructions provided in Exhibit A. The diskette(s) must be accompanied by paper copies of the information submitted on the diskette. The paper copies must conform in all respects to the requirements of sections 154 and 157 and will consist of the required number of copies of the transmittal letter, the tariff sheets, the certification of service, and a form of notice suitable for publication in the **Federal Register**.

The letter of transmittal and the certification of service will be submitted on paper only. The letter of transmittal must include the subscription provided in section 385.2005(a). The subscription provided must state, in addition to the requirement in section 385.2005(a), that the paper copies contain the same information as the diskette(s) and that the signer has read and knows the contents of the paper copies and that the contents as stated in the paper copies are true to the best knowledge and belief of the signer.

Respondents claiming that information is privileged must file in accordance with section 385.1112; otherwise, all data submitted will be considered non-privileged and will be made available to the public upon request.

IV. When To Submit

The tariff sheets should be filed with the Commission at the time the company proposes a change in service or rate. The notice period should be consistent with the Commission's regulations.

V. Where To Submit

(1) Submit this report to: Office of the Secretary, Federal Energy Regulatory Commission, Room 3110, 825 N. Capitol Street, NE., Washington, DC 20426.

(2) Hand deliveries may be made to the same address.

General Instructions

(1) Schedule TF. Records TF01 through TF06 and the text line records are intended to capture all of the tariff elements which the pipeline has historically filed as part of its FERC Gas Tariff. Record TF01 identifies the company and the filing date. Record TF02 captures information about the tariff volume; and Records TF03, TF04, TF05, and TF06 contain requisite marginal information for an individual tariff sheet. The actual tariff sheet text will follow Record TF06.

Each tariff sheet should be identified by the nature of the sheet, and assigned the appropriate ''Text ID'' from among those listed in the layout for Record TF03. For example, a tariff sheet which includes the table of contents must be assigned Text ID = ''1''. The text of a tariff sheet should include any footnotes applicable to the individual tariff sheet. When filing the tariff sheet on paper, footnotes should appear inside the ruled borders required by section 154.101.

All of the marginal information required under 18 CFR 154.102(d) is to be included only in the tariff sheet header records. These header records will be utilized to print a hard copy with the appropriate marginal information.

If a tariff sheet is filed to be read vertically in hard copy, this is referred to hereinafter as ''Portrait'' orientation. If the sheet will be read horizontally, the orientation is referred to as ''Landscape''. The requirements of section 154.102(d) imply that the length of a line of actual text is 6.75 inches in Portrait orientation, and 10.0 inches in Landscape. The pitch, the number of print characters per horizontal inch (cpi); the number of lines per vertical inch (lpi); and the page orientation for printing the tariff sheet must be given in the first Tariff Sheet Header Record, (Record TF03). The number of characters per horizontal inch (cpi) must not exceed 17. The acceptable lines per vertical inch are 6 or 8. The maximum line length and lines per page for Portrait and Landscape orientation are as follows:

Page orientation	Maximum line length (characters)				Maximum lines per page	
	10cpi	12cpi	15cpi	17cpi	6lpi	8lpi
Vertical (Portrait)	65	79	98	112	50	70
Horizontal (Landscape)	98	118	148	168	31	44

(2) Record Types. Records must be filed in the following order:

Company Header Record (TF01): One record per dataset.

Volume Header Record (TF02): One record per volume. All pages for the same volume will be grouped together. If more than one dataset is required for the filing of a volume, this record must appear in each dataset. Note: When more than one dataset is needed to accommodate a filing, name the datasets in accordance with the instructions in Exhibit A.

Note: The appropriate tariff sheet header records must precede each tariff sheet!

Sheet Header Record (TF03): One record per sheet.

Superseded Sheet Header Record (TF04): This record pertains to the superseded sheet information. One record per sheet unless there is no superseded sheet (e.g., Original and Substitute Original sheets). In that case, this record may be omitted.

Issuing Officer Header Record (TF05): One record per filing, unless the filing contains sheets that reference more than one issuing officer or the tariff sheets are submitted in more than one dataset. Optionally, this record may precede every tariff sheet filed.

Date and Docket Header Record (TF06): One record per filing, unless the effective date or other information in this record changes from sheet to sheet or the tariff sheets are submitted in more than one dataset. Optionally, this record may precede every tariff sheet filed.

Text Line Records: The actual tariff sheet text. Note: any special codes placed in the text (such as bold, italic, underline, etc.) are removed when converting to ASCII format.

(3) Numeric Fields. All numeric fields in Records TF01 through TF06 must not be left blank, and must be right justified unless indicated otherwise. The following conventions should be followed in preparing each header record in the filing:

(A) If a numeric data item is not applicable to the respondent, enter the numeric value ''0'' in the field provided for this data item.

(B) Do not include commas in reporting any numeric value.

(C) Report all dates as six digit numerics (month, day, year, MMDDYY).

(4) Pipeline Company ID. Use the code for the pipeline as contained in the Buyer Seller Code List, U.S. Department of Energy's publication DOE/EIA–0176. A code may be obtained by calling EIA at (202) 586–8841.

(5) Record Lengths. Do not pad the end of data records with blanks.

Specific Instructions

(1) Effective Date. The date, given as month, day, and year, on which the respondent expects the filing to be put into effect subject to the concurrence of the FERC.

(2) Tariff Volume Number. The number of the volume to which the tariff sheets belong. For example, if the volume is labeled ''First Revised Volume No. 1'', report a ''1'' in this field.

(3) Tariff Volume Revision Number. Report the number of the revision. For example, if the tariff volume is labelled ''Second Revised

Volume No. 1'', report a ''2'' in this field. If the tariff volume is an original volume, report a zero in this field.

(4) Tariff Volume ID. Report the full tariff volume name in this field. For example, if the volume is labelled ''First Revised Volume No. 1'', report ''First Revised Volume No. 1'' in this field.

(5) Sheet Number. Report the number of the tariff sheet being filed. For example, if the sheet is numbered ''First Revised Sheet No. 3 superseding Original Sheet No. 3'', report a ''3'' in this field.

(6) Sheet Revision Number. Report the number of the revision. For example, if the tariff sheet is numbered ''Second Substitute Third Revised Sheet No. 4 superseding Second Revised Sheet No. 4'', report a ''3'' in this field. If this is an original tariff sheet, report a ''0'' in this field.

(7) Sheet ID. Report the full designation for the tariff sheet being reported. For example, if the sheet is designated ''First Revised Sheet No. 3 superseding Original Sheet No. 3'', report ''First Revised Sheet No. 3'' in this field. If the Sheet ID exceeds the allowed 40 character positions for this item, use the ''Abbreviation Conventions List'' at Exhibit C.

(8) Superseded Sheet ID. Report the full designation for the tariff sheet being superseded. For example, if the tariff sheet being filed is designated ''First Revised Sheet No. 3 superseding Original Sheet No. 3'', report ''Original Sheet No. 3'' in this field. If the Superseded Sheet ID exceeds the allowed 40 character positions for this item, use the ''Abbreviation Conventions List'' at Exhibit C.

(9) First Superseded Sheet Number. When a single sheet supersedes a range of sheets (such as canceling a rate schedule or reserving sheets for future use), report the number of the first sheet in the range. Otherwise this field may be left blank.

(10) Last Superseded Sheet Number. When a single sheet supersedes a range of sheets (such as canceling a rate schedule or reserving sheets for future use), report the number of the last sheet in the range. Otherwise this field may be left blank.

(11) Alternate Sheet ID. When filing primary and alternative tariff sheets, the sheets are uniquely identified by reporting ''00'' in this field for the primary sheet, ''01'' for the first alternate, ''02'' for the second alternate, and so on.

(12) Issuing Officer. Report the name and title of the person authorized to issue the tariff sheet.

(13) Issue Date. The date given as month, day, and year when the tariff sheet is issued.

(14) Order Reference. For tariff sheets which are filed to make rate schedules or provisions ordered by the Commission effective, report the Docket Number and the date of such order. (If more than one docket applies, report the lead docket relating to the filing company in the proceeding.)

(15) FERC Cite. Enter the numbers of the cite to the FERC Reports in this field as follows: For a citation which appears as 12 FERC ¶ 34,567, enter all of the numbers but none of the letters, symbols, or commas. It will appear as 1234567.

ELECTRONIC TARIFF FILE LAYOUT—SCHEDULE TF

Item	Character position	Data type	Comments
(1) Company Header Record			
Schedule ID	1–2	Character	Sch = TF.
Record ID	3–4	Numeric	Code—01.
Company ID	5–10	Numeric	Company code from buyer/seller code list, see general instruction 4.
Date Submitted	11–16	Numeric	Month, day and year report is filed (mmddyy).
Company Name	17–65	Character	Name of filing company.
(2) Volume Header Record			
Schedule ID	1–2	Character	Sch = TF.
Record ID	3–4	Numeric	Code = 02.
Tariff Volume Number	5–8	Character	See specific instruction 2.
Tariff Volume Revision Number	9–11	Numeric	See specific instruction 3.
Tariff Volume ID	12–51	Character	See specific instruction 4.
(3) Sheet Header Record			
Schedule ID	1–2	Character	Sch = TF.
Record ID	3–4	Numeric	Code = 03.
Sheet Number	5–12	Character	See specific instruction 5.
Sheet Revision Number	13–15	Numeric	See specific instruction 6.
Alternate Sheet ID	16–17	Numeric	See specific instruction 11.
Text ID	18–19	Numeric	0 = Title Page. 1 = Table of Contents. 2 = Preliminary Statement. 3 = Rate Sheets. 4 = Rate Schedule Text. 5 = General Terms and Conditions. 6 = Form of Service Agreements. 7 = Index of Customers. 8 = Other Indices. 9 = Other Tariff Sheets. 10 = Sheets Reserved for Future Use.
Orientation	20	Character	P = Portrait. L = Landscape.
Pitch	21–22	Numeric	Characters per Horizontal Inch = 10, 12, 15, or 17.
Lines Per Inch	23	Numeric	Lines per Vertical Inch = 6 or 8.
Sheet ID	24–63	Character	See specific instruction 7.

ELECTRONIC TARIFF FILE LAYOUT—SCHEDULE TF—Continued

Item	Character position	Data type	Comments
(4) Superseded Sheet Header Record			
Schedule ID	1–2	Character	Sch = TF.
Record ID	3–4	Numeric	Code = 04.
First Superseded Sheet Number	5–12	Character	See specific instruction 9.
Last Superseded Sheet Number	13–20	Character	See specific instruction 10.
Superseded Sheet ID	21–60	Character	See specific instruction 8.
(5) Issuing Officer Header Record			
Schedule ID	1–2	Character	Sch = TF.
Record ID	3–4	Numeric	Code = 05.
Issued By	5–58	Character	Name and title of issuing official; see specific instruction 12.
(6) Date and Docket Header Record			
Schedule ID	1–2	Character	Sch = TF.
Record ID	3–4	Numeric	Code = 06.
Date Issued	5–10	Numeric	(mmddyy); see specific instruction 13.
Order Date	11–16	Numeric	(mmddyy); see specific instruction 14.
Docket Number	17–36	Character	See specific instruction 14.
Effective Date	37–42	Numeric	(mmddyy); see specific instruction 1.
(7) FERC Cite			
Schedule ID	1–2	Character	Sch = TF.
Record ID	3–4	Numeric	Code = 07.
FERC Cite	43–49	Numeric	See specific instruction 15.
(8) Sheet Text Line Records			
Each entire record consists of the text of the corresponding line of the tariff sheet, without prefix of any kind.			

Exhibit A—Diskette Filing Procedures

Diskette(s) containing the information specified for each record ID of the tariff filing filed with the FERC must conform with the following requirements:

(1) The character code for representing all data should be the American National Standard Code for Information Interchange (ASCII) as defined in FIPS PUB 1–2. An exception will be made for the cents (¢) symbol, which should be coded as hexadecimal 8B, or decimal 155, as defined in the IBM–US (PC–8) symbol set. Note that there are symbol sets which define it differently.

(2) The definitions, instructions, and schedule ID/record ID data layouts for this form specify explicitly the data items to be reported and the sequence for recording the information on the diskette(s). The information required for a tariff filing should be recorded on the diskette(s) exactly as specified in the data layout for each schedule/record and in accordance with the general instructions.

(3) All tariff sheets filed under a given docket number should all be included in the same ''file'' or data set, if possible. (Large files may be split as a matter of convenience or diskette size limitation). The file should be named: ''TFMMDDYY.ASC'' where ''TF'' stands for ''Tariff Filing'', and ''MMDDYY'' is the two digit month, day, and year the tariff filing is submitted. If more than one tariff filing is made on the same day, the subsequent filings should be given file names ''TFMMDDYY.BSC'', ''TFMMDDYY.CSC'', etc., where ''BSC'' indicates the second filing of the day, ''CSC'' the third filing, etc. The file name for each submission should be included in the transmittal letter accompanying the respondent's filing.

(4) Each logical record must be terminated by a CR (ASCII carriage return—13 decimal, OD hexadecimal). An ASCII line feed (LF) following a CR is accepted but not required as part of termination. Do Not pad the end of data records with spaces.

(5) Do not omit any numeric item. Numeric items do not require leading zeros unless specifically noted in the description of the data item. See the General Instructions of this form for detailed instructions for recording numeric data on the diskette(s).

(6) When refiling a diskette only to correct an electronic data error on the electronic version of a tariff sheet and not in the paper version, use the same file name, pagination and submittal date.

(7) Each diskette must state on the label that tariff sheets are enclosed. If more than one diskette is necessary to accommodate a filing, the diskettes should be numbered 1 of N, 2 of N, etc., where N is the total number of diskettes.

Exhibit B—Tariff Sheet Pagination Guidelines

Section 154.102(d)(2) of the Commission's regulations requires companies to number their tariff sheets as provided below.

(1) Original Sheets. Paginate a sheet as ''Original Sheet No. _____'' when the sheet number has not been used previously in the tariff volume. When filing an entire original or revised tariff volume, all sheets should be paginated as ''Original Sheet No. _____'' unless the sheet falls within the exception under Guideline (11).

(2) Revised Sheets. Designate a sheet as ''Revised'' if it is (a) filed in a different proceeding than the sheet it is superseding or (b) filed in the same proceeding but given a new proposed effective date. Each subsequent ''Revised'' pagination should be numbered sequentially. (See Examples 1 and 2.)

(3) Substitute Sheets. Designate a sheet as ''Substitute _____ Revised Sheet No. _____'' if it is filed to replace a sheet filed in the same proceeding with the same effective date. If a substitute sheet needs to be replaced, paginate the new sheet as ''Second Substitute,'' and so on. (See Example 1.)

(4) Superseded Sheets. Designate as the superseded sheet the most recent sheet filed in a different proceeding effective or proposed to be effective on the same day or on a day prior to the new sheet. This means when filing a substitute sheet the designated superseded sheet stays the same. Provided that the sheet does not fall under the exception in guideline (9). Never designate a rejected or suspended sheet as the superseded sheet. However, if a sheet designated as superseded is subsequently rejected, it is not necessary to refile solely to correct the superseded sheet designation. (See Example 1.)

(5) Rejected Sheets. If a sheet is rejected by order of the Commission, do not reuse the pagination of the rejected sheets. Designate a sheet ''Substitute'' if it is filed to replace a rejected sheet in the same proceeding, but do not designate a rejected sheet as the superseded sheet. Refer to Guidelines (3) and (4).

(6) Alternate Sheets. When filing two versions of a proposed tariff sheet, designate the sheets '' _____ Revised Sheet No. _____'' and ''Alternate _____ Revised Sheet No. _____.'' Paginate a replacement alternate sheet ''Sub Alternate.''

(7) Inserted Sheets. Designate sheets inserted between two consecutively numbered sheets using an uppercase letter following the first sheet number (e.g., sheets inserted between sheets 8 and 9 would be 8A, 8B, etc.). For sheets inserted between two consecutively lettered sheets, add a ''.'' followed by a two digit number (e.g., sheets inserted between sheets 8A and 8B would be 8A.01 through 8A.99). For further insertions, add a lowercase letter (e.g., between sheets 8A.01 and 8A.02 would be 8A.01a, 8A.01b, etc.).

(8) Pre-dated Sheets. When a sheet is filed with a proposed effective date which pre-dates the effective date of a suspended or effective sheet with the same number filed in a different proceeding, designate the new sheet ''_____ Rev_____ Revised Sheet No. _____'' where the second and third blanks are numbered the same as the sheet with the later effective date and the first blank contains ''1st,'' ''2nd,'' etc. Commonly, this situation occurs when a sheet is suspended for five months and subsequent sheets need to be made effective prior to the date the suspended sheet becomes effective. (See Example 3.) Note: When using the ''1st Rev'' pagination, drop extraneous words if the superseded sheet provides the same information. (See Example 4.)

(9) Retroactive Sheets. When filing a retroactive change back to a certain date, all sheets which are or were in effect from that date forward need to be changed. The first sheet should be designated either as ''Substitute'' in accordance with Guideline (3) above or ''_____ Rev'' in accordance with Guideline (8), depending on whether the retroactive filing is in the same docket as or a different docket from the sheet being replaced. The rest of the sheets should be designated as a ''Substitute'' of each sheet already on file. For the first new sheet in the series of sheets, the superseded sheet shall be designated in accordance with Guideline (4) above. However, the remainder of the sheets in the series should supersede each other in order, even though they are all filed in the same docket. In this way, the ''superseded'' designation will reflect the last sheet in effect on each given effective date. (See Examples 5 and 6.)

(10) Canceled Sheets. When filing to cancel a rate schedule, file one sheet with a new revision number and the sheet number of the first canceled sheet. Designate as superseded ''Sheet Nos. _____-_____'' where the blanks refer to the first and last canceled sheet numbers in a series. The specific pagination of each individual canceled sheet should be included in the body of the tariff sheet. When using the formerly canceled sheet numbers, refer to the pagination of the sheets listed in the body of the canceling sheet, and paginate each sheet with the next higher revision number. See Example 8.

(11) Sheets Reserved For Future Use. When reserving a number of sheets for future use, file one sheet paginated ''Sheet Nos. _____-_____'', where the blanks refer to the first and last reserved sheet numbers in series. In the body of the sheet state ''Reserved for Future Use.'' (See Example 9.) Note: in the electronic tariff sheet records, report the first sheet number in the series in the ''Sheet No.'' field and the full pagination in the ''Sheet ID'' field.

(12) Abbreviations. *Pagination cannot exceed 40 characters.* Abbreviate from left to right using the Abbreviation Conventions List in Exhibit C. *Abbreviate only as needed* to reduce the pagination to 40 characters or less. (See Example 7.) Electronic and paper versions of a tariff sheet must be paginated exactly alike, including abbreviations.

Example 1

''Original Sheet No. 4'' is filed in Docket No. CP94–44–000 to be effective January 1, 1994. Subsequently, a sheet filed in Docket RP94–1–000 is to be effective February 1, 1994. Paginate that sheet ''First Revised Sheet No. 4 superseding Original Sheet No. 4.'' A mistake is discovered and a corrected sheet needs to be filed in Docket No. RP94–1–001. Paginate that sheet ''Substitute First Revised Sheet No. 4 superseding Original Sheet No. 4.'' Note the superseded sheet is from the prior proceeding.

Docket	Filed	Effective	Pagination	Superseded sheet
CP94–44–000	11/30/93	1/1/94	Original	
RP94–1–000	12/31/93	2/1/94	First Revised	Original.
RP94–1–001	2/15/94	2/1/94	Sub First Revised	Original.

Example 2

''Second Revised Sheet No. 4'' is filed in Docket No. TM94–1–77–000 to be effective April 1, 1994. Subsequently, a sheet is filed in Docket No. RS94–1–50–000 to be effective on the same date. Paginate that sheet with the next revision number, ''Third Revised Sheet No. 4'' even though it is to be effective on the same date.

Docket	Filed	Effective	Pagination	Superseded sheet
TM94–1–77–000	2/28/94	4/1/94	Second Revised	Sub First Revised.
RS94–1–50–000	3/31/94	4/1/94	Third Revised	Second Revised.

Example No. 3

''Fourth Revised Sheet No. 4'' is filed July 31, 1994, in Docket No. RP94–134–000 to be effective September 1, 1994. An order suspends this sheet until February 1, 1995. Subsequently two filings are to be made effective prior to February 1, 1995. Paginate these sheets as ''1st Rev Third Revised Sheet No. 4'' and ''2nd Rev Third Revised Sheet No. 4.'' When filing to move the suspended tariff sheet into effect, paginate the revised tariff sheet as ''Sub Fourth Revised Sheet No. 4''. Note: using the alpha-numeric ''1st, 2nd'' for the additional revision number assists in keeping the pagination clear.

Docket	Filed	Effective	Pagination	Superseded sheet
RP94–134–000	7/31/94	2/1/95	Fourth Revised	Third Revised.
TM94–2–77–000	8/31/94	10/1/94	1st Rev Third Revised	Third Revised.
TM94–3–77–000	10/31/94	11/1/94	2nd Rev Third	1st Rev Third.
RP94–134–001	1/31/95	2/1/95	Sub Fourth Revised	2nd Rev Third.

Example 4

When needing to insert a sheet between ''Third Revised'' and ''Sub Alt Second Revised'' with the designation 1st Rev Sub Alt Second Revised, paginate the new sheet ''1st Rev Second Revised'' (dropping ''Sub Alt'' from the name), and designate the superseded sheet ''Sub Alt Second Revised.'' In the alternative, the abbreviations in Exhibit C may be used.

Example No. 5

The sheet given in Example No. 1, ''Sub First Revised Sheet No. 4'' filed in Docket No. RP94–1–001 is in effect February 1, 1994, subject to the resolution of issues. A year later, settlement is reached resulting in a restatement of base rates back to that date. The revised sheets filed under Docket No. RP94–1–002 (using prior examples):

Docket	Filed	Effective	Pagination	Superseded sheet
RP94–1–002	4/15/95	2/1/94	2nd Sub First Revised	Original.
		4/1/94	Sub Second Revised	2nd Sub First
		4/1/94	Sub Third Revised	Sub Second
		10/1/94	Sub 1st Rev Third Revised	Sub Third.
		11/1/94	Sub 2nd Rev Third	1st Rev Third.
		2/1/95	2nd Sub Fourth Revised	2nd Rev Third.

Example No. 6

Continuing from Example 5, a subsequent tracker filing retroactive to November 1, 1994:

Docket	Filed	Effective	Pagination	Superseded sheet
TM96–1–77–000	4/30/95	11/1/94	3rd Rev Third Revised	Sub 2nd Rev Third
		2/1/95	3rd Sub Fourth Revised	3rd Rev Third.

Example No. 7

Abbreviate ''Fourth Revised Twenty-Third Revised Sheet No. 4'' as ''4th Rev Twenty-Third Revised Sheet No. 4.''

Example No. 8

To cancel Rate Schedule X–26 which consists of Original Sheet No. 10, First Revised Sheet Nos. 11 through 36, Substitute First Revised Sheet No. 37, and Second Revised Sheet Nos. 38 and 39, file ''First Revised Sheet No. 10:''

My Pipeline Company, FERC Gas Tariff, Original Volume No. 1

First Revised Sheet No. 10 Superseding Sheet Nos. 10 Through 39

Notice of Cancellation

Rate Schedule X–26, Exchange Agreement with YOUR Pipeline Company, Dated January 1, 1980.

The following tariff sheets have been superseded:

Original Sheet No. 10

First Revised Sheet Nos. 11 through 36

Substitute First Revised Sheet No. 37

Second Revised Sheet Nos. 38 and 39

Example No. 9

Your general terms and conditions end on page 75 and you want to reserve sheets 76 through 99 for future use:

My Pipeline Company, FERC Gas Tariff, Original Volume No. 1

Sheet Nos. 76 through 99

Sheet Nos. 76 through 99 are reserved for future use.

Exhibit C—Abbreviation Conventions List

Substitute: Sub

Alternate: Alt

Revised: /

First, Second, etc.: 1st, 2nd, etc.

Sheet No.: (omit these words)

[FR Doc. 95–24723 Filed 10–10–95; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 157, 158, 201, 250, 260, 284, 381, and 385

[Docket No. RM95–4–000; Order No. 581

Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies

Issued: September 28, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its Uniform System of Accounts, its forms, and its reports and statements for natural gas companies. The amendments reflect the current regulatory environment of unbundled pipeline sales for resale at market-based prices and open-access transportation of natural gas. The Commission seeks to simplify and streamline its requirements to reduce the burden of respondents.

EFFECTIVE DATE: The final rule is effective November 13, 1995, except for the changes to the Uniform System of Accounts (Part 201).

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Braunstein, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–2114.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document, excluding Appendices B (FERC Form No. 2), C (FERC Form No. 2–A), and D (FERC Form No. 11), in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (800) 856–3920. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS in ASCII and WordPerfect 5.1 format. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) hereby amends its Uniform System of Accounts, [1] its forms, and its reports and statements for natural gas companies. [2] This Final Rule is a companion to the Commission's Final Rule ''Filing Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs'', which amends Part 154 of the Commission's regulations and is issued contemporaneously with this rule. The Commission has received 41 comments on the Notice of Proposed Rulemaking (NOPR) [3] in this docket from the commenters listed in Appendix A. [4]

In brief, the Commission, in this rule, addresses the Uniform System of Accounts' treatment of gas in underground storage reservoirs and in pipelines, [5] revenues [6] and gas supply expenses, [7] eliminates all accounts for Nonmajor respondents and redesignates accounts used only by Major respondents for use by all respondents. The Commission also changes or eliminates various forms, reports, and statements. This includes changes to, and deletions from, FERC Form No. 2 (Form No. 2), Annual report of Major natural gas companies, and FERC Form No. 2–A (Form No. 2–A), Annual report of Nonmajor natural gas companies, and FERC Form No. 11 (Form No. 11), Natural gas pipeline company monthly statement. [8]

The Commission is making the changes in order to create forms, reports, and statements that reflect the current regulatory environment of unbundled pipeline sales for resale at market-based prices and open-access transportation of natural gas. In doing that, the Commission seeks to simplify and streamline its requirements to reduce the burden on respondents. Hence, the Commission is eliminating reporting requirements (as well as a few non-reporting requirements) that are outdated or nonessential in light of current regulation, or are duplicative of other reporting requirements. At the same time, the revisions, especially of Form No. 2, will provide financial, rate, and statistical information on transactions that is more useful than what is currently available to regulatory agencies and other users of the financial statements and reports of natural gas companies. The Commission believes the changes to Form No. 2 are needed because the characteristics of certain balance sheet and income statement items for the restructured industry are different from what they were when the current accounting regulations were adopted. In addition, the Commission has significantly increased the thresholds for the reporting of various information.

In Part III–A of this rule, the Commission will address the changes to the Uniform System of Accounts with respect to storage gas. In Part III–B the Commission will address other revisions to the Uniform System of Accounts. In Part IV, the Commission will discuss the changes to Part 158 of the Commission's regulations with respect to the certification of compliance with the accounting regulations. In Part V, the Commission will discuss the changes to Part 250 of the Commission's regulations, ''Approved Forms, Natural Gas Act.'' In Part VI, the Commission will discuss the changes to Part 260 of the Commission's regulations, ''Statements and Reports (Schedules).'' That discussion will include the changes to Forms No. 2, [9] No. 2–A, [10] and Form No. 11. [11] In Part VII, the Commission will discuss the changes to Part 284 of the Commission's regulations, ''Certain Sales and Transportation of Natural Gas Under the Natural Gas Policy Act of 1978 and Related Authorities.''

In the NOPR, the Commission stated that the changes to these regulations and forms and to the regulations in the companion rule titled, ''Filing Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs,'' will necessitate modifications to the electronic formats for the affected filings and forms. The Commission will discuss electronic filings in Part IX below.

[1] Section 8 of the Natural Gas Act (NGA), 15 U.S.C. 717g (1988), authorizes the Commission to prescribe rules and regulations concerning accounts, records and memoranda as necessary or appropriate for purposes of administering the NGA. The Commission may prescribe a system of accounts for jurisdictional companies and, after notice and opportunity for hearing, may determine the accounts in which particular outlays and receipts will be entered, charged, or credited.

[2] Section 10 of the NGA, 15 U.S.C. 717i (1988), authorizes the Commission to prescribe rules and regulations concerning annual and other periodic or special reports, as necessary or appropriate for purposes of administering the NGA. The Commission may prescribe the manner and form in which such reports are to be made, and require from natural gas companies specific answers to all questions on which the Commission may need information. The reports must be made under oath unless the Commission otherwise specifies.

[3] Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Pipelines, 60 FR 3141 (January 13, 1995), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,512 (December 16, 1994).

[4] Appendix A also sets forth the names by which the commenters are referred to herein.

[5] The Commission amends Account 117, Account 164.1, and other accounts that refer to Account 117.

[6] The Commission amends Account 489 and Account 495.

[7] The Commission amends Account 806, Account 813, and Account 823.

[8] Form No. 2 consists of approximately 162 non-consecutively numbered pages and a four-page index. See 18 CFR 260.1. The current version bears OMB approval No. 1902–0028. Form No. 2–A consists of approximately 22 consecutively numbered pages, 1–22, and 32 non-consecutively numbered substitute pages from the Form No. 2 that may be used in lieu of the comparable pages in the first section. See 18 CFR 260.2. The current version bears OMB approval No. 1902–0030. Form No. 11 consists of approximately 4 consecutively numbered pages, 1–4. See 18 CFR 260.3. The current version bears OMB approval No. 1902–0032.

[9] Appendix B consists of the revised Form No. 2. Appendix B is not being published in the **Federal Register**, but is available from the Commission's Public Reference Room.

[10] Appendix C consists of the revised Form No. 2–A. Appendix C is not being published in the **Federal Register**, but is available from the Commission's Public Reference Room.

[11] Appendix D consists of the revised Form No. 11. Appendix D is not being published in the **Federal Register**, but is available from the Commission's Public Reference Room.

The changes to the Uniform System of Accounts and Form Nos. 2, 2–A, and 11 in this rule will be effective January 1, 1996. [12] The remainder of the rule will be effective 30 days after publication in the **Federal Register**.

II. Public Reporting Burden

The subject final rule establishes new reporting requirements, modifies existing reporting requirements, and eliminates those requirements that are now obsolete. In addition, the final rule reflects many of the changes suggested by industry comments filed in response to Commission's Notice of Proposed Rulemaking. This simplification and streamlining of Commission reporting requirements has reduced the burden on pipelines. The collective reduction in reporting burden is estimated to be 61,824 hours annually.

The final rule will affect eight of the Commission's existing data collections. It is expected to reduce or eliminate the current reporting burden associated with the following six information collections:

FERC Form No. 2 ''Annual Report of Major Natural Gas Companies'' (1902–0028) (FERC–2);
FERC Form No. 11, ''Natural Gas Pipeline Company Monthly Statement (1902–0032) (FERC–11);
FERC–549, ''Gas Pipeline Rates: Natural Gas Policy Act Title III Transactions'' (1902–0086) (FERC–549);
FERC–576, ''Reports on Pipeline Systems Service Interruptions'' (1902–0004) (FERC–576);
FERC Form No. 8, ''Underground Gas Storage Report'' (1902–0026) (FERC–8); and
FERC Form No. 14, ''Annual Report for Importers and Exporters of Natural Gas'' (1902–0027) (FERC–14)

The FERC Form Nos. 8 and 14 will be eliminated entirely as a result of this rule. One of the affected data collections—FERC Form No. 2–A, ''Annual Report of Nonmajor Natural Gas Companies'' (1902–0030) (FERC–2A)—will have no substantive change in its current reporting burden. [13] Only one of the data collections will have a slight increase in burden. The burden associated with FERC–549B, ''Gas Pipeline Rates: Capacity Release Information'' (1902–0169) (FERC–549B) will increase as a result of the institution of the Index of Customers.

The aggregate annual reporting burden as a result of the final rule for all affected data collections is estimated to total 437,835 hours based on an expected 981 filings per year. The summary table below shows the impact/reduction on each affected data collection. The Commission's estimates of public reporting burden for the data collections include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Affected data collection (RM95–4–000)	Estimated annual burden hrs (rule)	Estimated annual burden hrs (current)	Net change in annual burden hrs	Estimated No. of filings/yr (rule)	Estimated burden hrs per filing (rule)
FERC–2	68,310	113,850	−45,540	46	1,485.0
FERC–549	[14] 795	14,045	−13,250	[15] 90	[16] 8.8
FERC–549 (B)	350,308	349,060	1,248	[17] 546	641.6
FERC–576	12	36	−24	12	1.0
FERC–11	600	3,420	−2,820	200	3.0
FERC–2A	2,610	2,610	0	87	30.0
FERC–8 [18]	0	1,296	−1,296	0	0
FERC–14 [18]	0	142	−142	0	0
Total	422,635	484,459	−61,824	981	430.8

[14] Comprised of 750 hours for transportation filings and 45 hours for sales filings.
[15] Comprised of 75 transportation filings and 15 sales filings.
[16] The weighted average of 10.0 hours per transportation filing and 3.0 hours per sales filing.
[17] Includes 468 Index of Customer filings.
[18] This data collection is discontinued by the subject rule.

With respect to the gas companies filing FERC Form No. 2, the Commission believes that there will be a total reporting burden decrease of 45,540 hours, or approximately 990 hours per respondent each year due to the elimination of about 34 schedules and significant increases in the thresholds for the reporting of information on other schedules. There will be some additional information required, but there should be a minimal burden increase as a result, because much of the information is already collected by the industry in other contexts.

The Commission estimates that the existing public reporting burden for the other filing requirements under the rule will also be decreased. With respect to FERC Form No. 11, the quarterly Form No. 11 will contain monthly details of data required annually on an aggregate basis in FERC Form No. 2. The filing of FERC Form No. 11, quarterly rather than monthly, will reduce the number of reports from 600 to 200. In addition, data are primarily required by rate schedule or Uniform System of Accounts entries. These consistencies in reporting will simplify the filing burden. The revised reporting schedule will reduce the existing reporting burden by a total of 2820 hours, or approximately 56 hours per respondent each year.

The elimination of initial, subsequent, termination, and annual reports, FERC–549, for interstate pipelines, and the retention of only the annual transportation reports for intrastate pipelines and the annual sales reports for interstate pipelines, will reduce the reporting burden by a total of 13,250 hours. The Commission estimates that the annual report for the 75 remaining intrastate respondents will require an average of 10 hours to complete. The annual sales report for the 15 interstate respondents requires an average of 3 hours to complete.

The Index of Customers requirement will add approximately 1,248 hours to the total burden under FERC–549B. In

[12] That is, the pipelines must comply with the revised Uniform System of Accounts starting January 1, 1996, and they must report 1996 information on the FERC Form Nos. 2 and 2–A filed in 1997. The Form No. 2 filed in 1996 will be the current Form No. 2 and will report for the year 1995.

[13] No net change in the reporting burden is expected because of offsetting increases and decreases within the data collection.

its Notice of Proposed Rulemaking, the Commission estimated that this requirement would add 11,700 hours to the reporting burden for FERC–549B. However, the Commission has deleted the paper filing requirement, and required that the index be filed electronically with the Commission and be available through a pipeline's electronic bulletin board. It is now estimated that the Index of Customers will take approximately 4 hours for each quarterly update for the 78 pipeline respondents.

Allowing reporting of service interruptions in FERC–576 by any electronic means, including facsimile or telegraph, will expedite the notice process, and reduce the burden to one hour per response from three hours. This report is required only in the event of an interruption to normal service lasting three hours or longer.

The elimination of the FERC Form Nos. 8 and 14 will reduce industry reporting burden by 1,296 and 142 hours, respectively.

A copy of this rule is being provided to OMB. Interested persons may send comments regarding these burden estimates, or any other aspect of these collections of information, including suggestions for further reductions of burden, to the Federal Energy Regulatory Commission, Washington, D.C. 20426 [Attention: Michael Miller, Information Services Division, (202) 208–1415, FAX: (202) 208–2425]. Comments on the requirements of this final rule may also be sent to the Office of Information and Regulatory Affairs of OMB, Washington, D.C. 20503 [Attention: Desk Officer for Federal Energy Regulatory Commission, (202) 395–3087, FAX: (202) 395–5167].

III. Revisions to Uniform System of Accounts (Part 201)

A. Storage Accounting

1. The NOPR

In the NOPR, the Commission proposed to require that the maximum designated gas volumes maintained for system balancing purposes,[19] including those needed for no-notice transportation service, and recoverable base gas volumes be accounted for as a fixed asset rather than as inventory held for sale, which is the current practice.[20] Collectively these volumes are referred to as ''system gas''.

Under the fixed asset model, system gas would be accounted for as a noncurrent asset or permanent investment. In contrast, under the inventory model, system gas would be accounted for as inventory. The two models differ in how the pipeline's investment in gas is valued and in how gains and losses on balancing transactions are measured and recognized.[21]

To implement the fixed asset accounting model for system gas, the NOPR proposed that Account 117, Gas Stored Underground—Noncurrent, be replaced by new accounts Account 117.1, Gas Stored—Base Gas, Account 117.2, System Balancing Gas, Account 117.3, Gas Stored in Reservoirs and Pipelines—Noncurrent, and Account 117.4, Gas Owed to System Gas.

2. Comments on Mandating the Fixed Asset Model

The fixed asset approach is supported in whole or in part by Columbia, ANR, Enron, Tennessee, Texas Gas, KN, NGSA, and NI-Gas. It is opposed by Panhandle, Transco, and AGD.

INGAA and other commenters[22] maintain that the pipelines should be able to choose either the fixed asset or inventory model. INGAA submits that this flexibility is justified for two reasons. First, it argues that adoption of the fixed asset model will not ensure uniformity in accounting for storage because that model is not uniform among non-pipeline storage owners and operators, such as independent storage operators and local distribution companies. Second, INGAA contends that flexibility would prevent a number of distortions which will arise from pipelines converting from the inventory method to the fixed asset model. Third, INGAA asserts that the change from the inventory to the fixed asset model could increase state ad valorem taxes and could be considered a change in accounting by the IRS, causing it to rescind permission to use the LIFO inventory method for income tax purposes.

3. The Treatment of System Gas

As stated above, there is support for both the fixed asset model and the inventory model as the appropriate approach for accounting for investments in system gas. Upon review of the comments, the Commission concludes that valid arguments can be made in support of either approach. Accordingly, the Commission will permit pipelines to adopt either the fixed asset model or the inventory model to account for system gas.[23]

Each pipeline must inform the Commission of the method it adopts for accounting for system gaswhen it files its Form No. 2 in 1997. The method adopted by each pipeline must be used consistently from year to year and appropriate records must be maintained. The pipeline must obtain Commission approval for any change in method. The Commission will not permit a pipeline to adopt one method for determining its rates and another method for accounting purposes. For example, if a pipeline elects the fixed asset model for accounting purposes, it must derive its rates via that model in its first full rate proceeding subsequent to its accounting decision. Similarly, if a pipeline uses the fixed asset model in developing its rates, it must use the same method for accounting purposes.

4. The Rule

a. *Investment in System Gas.* To implement this rule, the Commission is revising its accounting regulations to allow pipelines two alternative methods of accounting for all pipeline investment in system gas. Under those regulations, pipelines may continue to account for their gas using a consistently applied inventory method, or pipelines may adopt the ''fixed asset'' method. As noted above, the Commission is not changing the accounting requirements for initial line pack, LNG heel, and non-recoverable base gas. The cost of this gas will continue to be recorded in the utility plant accounts. The Commission is replacing Account 117, Gas Stored Underground-Noncurrent with four new accounts: Account 117.1, Gas Stored—Base Gas, Account 117.2, System Balancing Gas, Account 117.3, Gas Stored in Reservoirs and Pipelines-Noncurrent, and Account 117.4, Gas Owed to System Gas.

Account 117.1 will include the cost of recoverable gas volumes that are necessary to maintain pressure and deliverability requirements for the storage facility. Nonrecoverable gas volumes used for this purpose will continue to be recorded in Account 352.3, Nonrecoverable Natural Gas.

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[19] System balancing, as used here, refers to those situations where the pipeline provides gas from its own source of supply in order to meet deficiencies caused by a shipper tendering less volumes to the pipeline at the receipt point than it takes from the system at the delivery point. The term can also be used to refer to situations where the shipper tenders more volumes than it takes from the system.

[20] The Commission is not changing the accounting requirements for initial line pack, LNG heel, and non-recoverable base gas. The cost of this gas will continue to be recorded in the utility plant accounts.

[21] See the NOPR at pps. 32,999–33,001 for a full discussion of the differences between the fixed asset and inventory models.

[22] ANR, Kern River, Transco, Enron, Tennessee, KN, Williston, and Consumers Power.

[23] The Commission is not setting forth the arguments for and against the models in light of the decision not to mandate a particular model.

Account 117.2 will be used to record a pipeline's investment in any additional system gas volumes, including gas stored in pipelines above initial line pack, designated as maximum system gas needed for load balancing, no notice transportation, and other operational purposes. Account 117.3 will be used to record the cost of noncurrent company-owned stored gas not includable in Accounts 117.1 or 117.2.

Account 117.4 will primarily be used by pipelines that account for system gas using the fixed asset model. Account 117.4 will reflect encroachments upon system gas that result from transportation imbalances, no-notice transportation, and other operational needs. It may also be used to reflect encroachments on volumes recorded in Account 117.1 for pipelines using an inventory method.

The initial investment cost to be recorded in Account 117.1 and 117.2 is to be determined from the book balances in Account 117 on the date of adoption of the new accounts. If there is no Commission approved method to the contrary, volumes in Account 117.1 and Account 117.2 are to be priced at their historical cost consistent with the inventory method previously in use.[24] If at the date of adoption, a pipeline's volumes in storage are less than the maximum volume authorized by the Commission for operational purposes, the deficient volumes are to be priced at the then current market price [25] with an equal amount being credited to Account 117.4.

b. *Use of System Gas.* (1) *Fixed Asset Method.* Under the fixed asset method the Commission is adopting in this rule, future encroachments upon system gas are to be credited to Account 117.4 at the then current market price of gas with a corresponding charge to Account 808.1, Gas Withdrawn From Storage-Debit. If the volumes are used to meet transportation imbalances, Account 806, Exchange Gas, will be credited and Account 174, Miscellaneous Current and Accrued Assets, will be debited for the same amount and simultaneously with the entries to system gas.

Pipelines will be required to maintain records supporting Account 117.4 of monthly encroachment volumes and unit prices unless the pipeline revalues its total encroachment balance monthly. If a pipeline revalues the balance in Account 117.4, it should charge or credit a separate subaccount of Account 813, Other Gas Supply Expenses, with the amount of the revaluation. To the extent that there are corresponding changes in the value of imbalance receivables or payables, the pipeline should make an appropriate adjustment to Account 174, Miscellaneous Current and Accrued Assets or Account 242, Miscellaneous Current and Accrued Liabilities, with contra-entries to Account 813.

If a customer responsible for an owed-to-system gas balance meets his responsibility for repayment by delivering gas in-kind, the recorded balance for such customer in Account 174 will be reversed and Account 806 will be debited. The amount recorded in Account 117.4 for such volumes must be cleared and Account 808.2, Gas Delivered to Storage—Credit, credited.

If the customer responsible for an owed-to-system gas balance meets his responsibility through a cash-out provision, similar accounting will be followed. To recognize settlement of the receivable, the pipeline will reverse the recorded amount in Account 174. Any difference between the cash-out settlement amount and the recorded receivable will be recognized as a gain in Account 495 or a loss in Account 813, as appropriate.

When the pipeline replaces the gas, any difference between the cost of the gas and the amount cleared from Account 117.4 will result in a gain or loss. The pipeline should record the gain or loss in Account 495, Other Gas Revenues, or Account 813 as appropriate with contra entries to Account 808.2.

In instances in which a pipeline's tariff requires that gains and losses on system balancing transactions are to be passed along to customers, pipelines should record the gains or losses directly in Account 254, Other Regulatory Liabilities, or Account 182.3, Other Regulatory Assets, as appropriate.

(2) *Inventory Method.* Under the inventory method, withdrawals of system gas are to be credited to Account 117.2, at the inventory cost of gas [26] with a corresponding charge to Account 808.1, Gas Withdrawn From Storage-Debit. If the volumes are used to meet transportation imbalances, Account 806, Exchange Gas, will be credited and Account 174, Miscellaneous Current and Accrued Assets, will be debited for the same amount and simultaneously with the entries to system gas.

The pipeline must also account for withdrawals of gas from Account 117.1 under the inventory method. However, if encroachments upon Account 117.1 volumes are to be replaced within 12 months, the pipeline may, at its option, account for such withdrawals in accordance with the requirements for encroachments of system gas under the fixed asset method. The method chosen should be applied consistently from year to year and not changed without express approval of the Commission.

5. Fixed Asset Accounting Implementation Issues

A number of commenters requested clarification of certain aspects of the proposed fixed asset model and noted various implementation difficulties with the Commission's approach. The following discussion is the Commission's response to the concerns expressed by commenters.

As stated above, the Commission is replacing Account 117, Gas Stored Underground-Noncurrent, with four new accounts: Account 117.1, Gas Stored-Base Gas and Account 117.2, System Balancing Gas, 117.3, Gas Stored in Reservoirs and Pipelines—Noncurrent, and 117.4, Gas Owed to System Gas. The Comments address those accounts.

a. *Accounts 117.1 and 117.2.* Williston asks for clarification that gas previously capitalized in Account 101 [utility plant] is not to be reclassified as Account 117.1 gas. The Commission clarifies that the cost of gas volumes properly includable in Account 101 is not to be reclassified to Account 117.1. The rule is making no change to the requirements of the existing Uniform System of Accounts that the cost of non-recoverable gas in underground reservoirs used for the storage of gas, and the first cost of gas introduced into the utility's system necessary to bring the pipeline system up to its designed operating capacity or increases therein, are to be included in the plant accounts.

Enron maintains that Accounts 117.1 and 117.2 should be combined into a single account titled ''System Gas,'' because there is no clear line between volumes serving a pressure maintenance function and volumes used for system balancing.

[24] The cost of any volumes of base or system gas actually in storage that has previously been charged to expense should be carried in the accounts at zero cost.

[25] Current market price is the delivered spot price of gas as published in a recognized industry journal. The publication used must be the same one identified in the pipeline's tariff for use in its cash-out provision, if it has one. If the pipeline does not have a cash-out provision, the pipeline must use a publication representative of the cost of gas in its supply area, use the same publication consistently, and identify the publication in its records.

[26] Withdrawals of gas may be priced according to the first-in-first-out, last-in-first-out, or weighted average cost method, in connection with which ''the fixed asset method'' may be employed provided the method adopted by the utility is used consistently from year to year and the inventory records are maintained in accordance therewith.

The Commission will not adopt Enron's suggestion. The Commission recognizes that a bright line separating the volumes necessary for maintaining storage pressure and deliverability requirements from those necessary for efficient transmission operation (i.e. system balancing gas) does not exist for most if not all storage facilities. However, base gas volumes in storage reservoirs are used to maintain pressure and deliverability requirements for both customer storage and pipeline storage of system gas. Because storage rates are often separate from transmission only rates, it is necessary to separately identify the cost of base gas so that proper allocations of base storage costs can be made between storage and transmission services. Commingling base storage with system balancing gas would make cost and rate determinations more difficult.

CNG urges the Commission to delete the requirement to report line pack in Account 117.2 because CNG includes line pack in plant accounts or has expensed it already and its line pack fluctuations are immaterial from month to month.

The final rule does not require the cost of line pack gas previously charged to expense to be included in Account 117.2. However, pipelines must account for volumes stored in the pipeline above line pack volumes consistent with the rule. That is, the cost of such additional volumes must be recorded in Account 117.2 or 117.3, as appropriate. If the pipeline has previously charged the cost of any such additional volumes on its system to expense such volumes must be included in the accounts at zero cost.

NGSA would create a number of new accounts to deal with system gas. NGSA states that although both Accounts 117 and 164.1, Gas Stored Underground—Current, should be maintained as fixed assets, Account 164 also should be used for system balancing transactions because it is NGSA's belief that working gas, not base gas, is cycled. It would amend the accounts instructions to require pipelines to record both volumes and dollars and would establish specific subaccounts in Account 164, rather than Account 117, to match the pipeline's accounting of imbalances by service type and rate schedule (*e.g.,* no-notice, exchange, gathering, FT and IT). Gas Owed to System Gas would be reflected in Account 174.4 and a separate asset account would be established for line pack.

The Commission will not adopt NGSA's proposal because the Commission believes it is unnecessary to establish a separate account for line pack or to prescribe numerous subaccounts of storage gas by service type and rate schedule. The proposed new Accounts 117.1 through 117.4 should be adequate for accounting for all system gas. In this regard, the Commission will modify instruction A of the proposed Account 117.3 to include the cost of all stored gas in excess of system, whether or not it is available for sale. Although the Commission declines to require specific subaccounts for system gas, pipelines may establish whatever subaccounts they deem necessary to facilitate the needs of their individual pipelines.

Panhandle interprets the NOPR's proposal to price volumes includible in Account 117.2 ''at the inventory price that would be applicable to the last volumes that would be withdrawn from storage before encroachment upon base gas'' (NOPR at p. 33,002), as requiring restatement of all system gas that had previously been accounted for using a LIFO or FIFO inventory method. Panhandle maintains this is improper.

Panhandle's interpretation is incorrect. The proposed rule was not intended to require or permit pipelines to restate the carrying value of system gas in storage upon implementation of the new accounting. The proposed rule clearly states that the initial investment cost to be recorded in Accounts 117.1 and 117.2 is to be determined from the book balances on the date of adoption of the new accounts. The statement cited by Panhandle was intended to address potential situations where the initial volumes of gas in storage exceeded the volumes designated as system gas. In these situations, the cost to be assigned to Account 117.2 should be determined based on historical inventory price layers starting with the pricing layer applicable to the last volumes that would be withdrawn from storage before encroachment upon base gas and continuing until all of the volumes of system gas have been priced.

b. *Account 117.4.* (1) *Nature of the Account.* The Commission proposed Account 117.4 as an account that would reflect the obligation to replace volumes that encroached on system supply.

Panhandle contends that the Commission has not explained whether Account 117.4 is designed as a liability or a valuation account and that, in any event, the proposed approach is not in accordance with Generally Accepted Accounting Principles (GAAP). It asserts that there is no liability on the pipeline's part to restore system gas. It then argues that, like a valuation account, Account 117.4 reduces the carrying value of the system gas asset, but it ''reduces system gas to a value that is neither cost-based nor market-based, but a varying hybrid which does not qualify as an asset account.'' [27]

Williston maintains that the characteristics of Account 117.4 gas (encroachments) ''do not satisfy the characteristics of a fixed asset for Balance Sheet presentation.'' [28] Similarly, Enron submits that the gas owed to system gas account is a temporary valuation adjustment to the system gas accounts and should not be a part of the fixed asset accounts. Enron further maintains that ''working capital would be misstated if the gas owed to system gas account is a fixed asset account, with the companion imbalance recorded as a receivable.'' [29] It suggests that ''gas owed to system gas should be established as a current asset/liability account rather than a fixed asset account.'' [30] Texas Gas also argues that encroachments should be presented in a current asset/liability account to avoid large non-cash fluctuations in fixed assets and working capital. It submits this would be in accordance with gas receivables/payables recorded in Accounts 174/242 as proposed in the NOPR.

Enron and Texas Gas believe that Account 117.4 is a temporary valuation account that is more in the nature of a current asset. Treating it as a fixed asset will misstate working capital because the companion imbalance would be recorded as a receivable.

Account 117.4 has characteristics of both a liability account and a valuation account. A pipeline has a constructive requirement to replace encroachments of system gas if it is to remain in the business as a transporter. Accordingly, the amounts that are to be recorded in Account 117.4 represent, in significant respects, probable future sacrifices of economic resources resulting from past transactions (the encroachments).

Thus, the amounts seem to generally fit the conceptual definition of a liability. Yet, as Panhandle points out, the pipeline does not have a legal obligation to one or more entities to purchase replacement gas and therefore the amounts would not constitute a recognizable liability under generally accepted accounting principles.

The amount to be recorded in Account 117.4 is an estimate of the cost to be incurred by the pipeline to replace the encroachments to system gas that have occurred. As such, the Commission believes Account 117.4 is more in the nature of a valuation

[27] Comments at 16.

[28] Comments at 4.

[29] Comments at 4.

[30] Id.

account than a liability. Although different from the example cited in Concepts Statement No. 6, the owed to system gas account is consistent with the following more general discussion of ''valuation accounts'' contained in the Statement: [31]

A separate item that reduces or increases the carrying amount of an asset sometimes found in financial statements. Those ''valuation'' accounts are part of the related assets and are neither assets in their own right nor liabilities.

Since the Commission views Account 117.4 to be more in the nature of a valuation account, it has decided to retain its classification within the Account 117 grouping of accounts. This is consistent with the usual financial statement display of valuation accounts as reductions of the accounts to which they relate. As the Commission stated in the NOPR, however, the amounts recorded in account 117.4 and the companion imbalance receivable and payable accounts can be taken into consideration in determining cash working capital requirements.

(2) *Valuation/Pricing.* In the NOPR the Commission proposed that encroachments on system gas would be valued at the current market price. When a customer responsible for an owed-to-system gas balance met his responsibility for repayment by delivering gas in kind, the NOPR proposed that Account 117.4 be cleared at the same price originally used to record the encroachment. If the balance in Account 117.4 was due to more than one transaction, the NOPR proposed that the accounting would follow a queue with the earliest transaction first, until the credit balance in Account 117.4 was eliminated.

El Paso objects to the ''aging of imbalances by contract and month and the tracking of all shipper over/under performance in and out of storage accounts using a queue.'' [32] It does so because ''[w]hile there in fact may be some relationship between changes in storage and changes in imbalances, the two events cannot be tied together on a shipper by shipper, contract by contract basis.'' [33] It adds that such reporting ''would serve no purpose and would lead to arbitrary results.'' [34] It recommends, as an alternative, that ''[c]hanges in storage should be treated in the aggregate and not tied to any individual shipper or contracts.'' [35]

Columbia concurs with valuing Account 117.4 gas at the current market price. Texas Gas recommends that the pipelines have discretion to determine the value of encroachment gas. It further maintains that ''accounting for storage activity on a transaction-by-transaction basis by following 'a queue' would be impractical and an administrative burden which would, in Texas Gas's situation, be of no value, as all system activity is tracked and Texas Gas incurs no gains/losses resulting from pricing differentials.'' It also submits that ''obligations to repay gas in-kind to or from a pipeline should be presented in the financial statements at an established value at a point in time (i.e., the date of the balance sheet) not at the current market price in effect on the date each transaction took place.'' [36] It asserts that ''since the obligation is to replace the gas in-kind, the 'market price' on the date it was borrowed is irrelevant.'' [37]

Kern River opposes valuing imbalance quantities at current market prices. It submits that for it such a current market valuation of Account 117.4 gas is unnecessary and unduly burdensome. It states that it never, since its initial line pack purchases, bought gas for fuel, imbalances, or to replenish line pack. Hence, it asserts that it is justified in recording all imbalances at its historical average unit cost of line pack.

Panhandle maintains that the layered pricing as proposed in the NOPR would be burdensome by increasing the annual recorded transactions of its pipeline group from 48 to approximately 17,300.

Panhandle also claims that it will have to create and maintain two sets of calculations to the extent gains/losses are calculated differently from the relevant tariff method. And it claims a significant burden increase of from 8,010 hours to 16,050 hours due to the procedures in the proposed rule.

Columbia, Enron, and Tennessee urge the Commission to simplify the accounting and recordkeeping requirements by allowing pipelines to net all transactions and record one monthly entry with one month-end price for valuation purposes, as well as monthly repricing of the cumulative net imbalances.

After considering the comments, the Commission has decided not to adopt suggestions that would allow alternatives for valuing encroachments under the fixed asset model. Instead, the Commission will require all pipelines to value encroachments at current market price as originally proposed. For purposes of valuing the encroachments, current market price means the delivered spot price of gas as published in a recognized industry journal. The publication used must be the same one identified in the pipeline's tariff for use in its cash-out provision, if it has one. If the pipeline does not have a cash-out provision, the pipeline must use a publication representative of the cost of gas in its supply area, use the same publication consistently, and identify the publication in its records.

The Commission recognizes that for in-kind transactions pipelines do not separately purchase replacement gas and therefore do not recognize a gain or loss on the use and replacement of system gas. However, the accounting event to be recognized is the encroachment, and the prospect of obtaining replacement gas in kind from a customer should not produce a measurement different from what would be obtained in a cash transaction.

Upon consideration of the comments, the Commission will simplify the proposed recordkeeping for encroachments and replacements of system gas under the fixed asset method. The NOPR proposed that different price layers be maintained for monthly encroachments on system gas and that replacements of system gas be priced following a queue. The Commission now believes that this approach is unnecessarily complex. Instead, the Commission will adopt the suggestions of INGAA and others to allow pipelines to revalue cumulative net imbalances, net all transactions and record one monthly entry with one month-end price for valuation purposes. The Commission believes that this modification will reduce the recordkeeping burden associated with the fixed asset model without materially affecting the validity or reliability of the accounting measurements.

(3) *Losses on Settlement of Imbalances.* CNG submits that the Commission's proposal to revise Account 813, Other Gas Supply Expenses, so that it will include losses on settlements of imbalance receivables would have an adverse impact on its record keeping. It states that in order to calculate gains and/or losses on imbalance settlements, historical imbalance data, including gas prices, would need to be tracked.

There will be no need to track gas prices or use historical imbalance data for calculating gain or loss. The Commission's simplification of the recordkeeping requirements for storage

[31] See paragraph 34 of FASB Statement of Financial Accounting Concepts No. 6, ''Elements of Financial Statements'', FASB Original Pronouncements, Vol. II (1995).

[32] Comments at 5.

[33] Id.

[34] Id.

[35] Id.

[36] Id.

[37] Comments at 4.

imbalances under the fixed asset method should substantially mitigate CNG's concern over the record keeping requirements necessary to calculate gains or losses of imbalances. For imbalances in which the pipeline has delivered more than the shipper injected at the receipt point, gains (or losses) will be the difference between the cash-out price and the pipeline's purchase cost of replacement gas volumes. For cashed-out imbalances in which the pipeline has delivered less than the shipper has tendered into the pipeline, the gain (or loss) will be the difference between the cash-out price paid by the pipeline and the current price of volumes recorded in Account 117.4. For system gas accounted for under the inventory method, gain or loss will be the difference between the cash-out price and the inventory price of the gas imbalance.

(4) *Storage Losses.* The NOPR did not explicitly address the accounting for storage losses.

CNG maintains that Account 117.4 needs to be revised to address encroachments due to storage losses and suggests specific instructions for losses.

The Commission agrees that the Uniform System of Accounts should contain explicit instructions for gas losses. The Commission has therefore added instructions to require: (1) losses of gas stored in underground reservoirs be charged to Account 823, Gas Losses. The Commission did not adopt CNG's specific language changes related to storage losses. However, the Commission agrees that under the fixed asset model, losses of system gas should be priced at the same rate used to price withdrawals in the month in which the loss is recognized (*i.e.* the current market price of gas available to the utility). Storage losses under the inventory model will continue to be priced at inventory cost.

(5) *Other Item.* Columbia requests clarification of the requirements for Account 117.4, Gas Owed to System Gas. Columbia apparently seeks confirmation that Account 117.4 is to be used to record imbalances only after Columbia has exhausted other options for resolving imbalances. In other words, the pipeline could use customer-owned storage quantities to the extent permitted by its tariff prior to using its own gas. This recognizes that the gas borrowed from storage to meet imbalances belongs to the storage customers. Columbia is permitted to borrow the gas from storage because of an arrangement between Columbia and its customers that, consistent with Columbia's tariff, allows Columbia to use its customer's gas for balancing purposes. Thus, Columbia and any other similarly situated pipeline would record amounts in Account 117.4 only after customer gas available to the utility for system balancing purposes has been exhausted. This accounting is appropriate because the pipeline is using its customers' gas to meet imbalances on its transportation system. If however, it is necessary for the pipeline to use its own gas for system balancing purposes and if such use results in an encroachment upon the system gas volumes amounts would be required to be entered in Account 117.4 under the fixed asset model. Under the inventory model, use of the pipeline's gas for balancing would require entries directly to the system gas accounts.

d. *EBB reporting.* AGD maintains that the estimated volumes in Accounts 117.1 through 117.4 and particularly 117.4 should be calculated by the pipeline and provided to shippers daily through the EBB.

The Commission concludes that no purpose is served by posting this information in the EBB. In addition, the maintenance of this data would be burdensome by being time-consuming and labor intensive. Hence, the Commission is not requiring posting of this data on the EBB.

B. Shipper Supplied Gas

1. The NOPR

In the NOPR, the Commission addressed the issue of the appropriate accounting treatment of gas furnished to the pipelines by their shippers for compressor fuel and other pipeline system use.[38] The Commission concluded that the pipelines must include the value of that gas in their reported revenues and in their reported expenses.

The Commission also invited comments from the industry about whether a price index should be used to account for the value of gas furnished by customers; and, if so, asked what would be the appropriate price index, and how that price should be applied.

The Commission concluded that no changes were needed to the USofA to effect its proposal. However, the Commission stated that the records supporting the purchased gas accounts for retained gas must be so maintained that there will be readily available for each shipper and point of receipt, the quantity of gas tendered, and the values assigned.

2. Comments on Accounting Treatment

INGAA suggests that the Commission not mandate the procedure for accounting and valuation of customer-provided compressor fuel as revenue because the Commission's proposal contradicts a majority of the pipelines' tariff provisions and mechanisms. ANR also maintains that each company should be able to use its current method.

Columbia and AGD support the NOPR's proposal. However, Panhandle, ANR, MRT, Great Lakes, Williams, Transco, Enron, Texas Gas, National Fuel, and Kern River oppose the NOPR's proposal.

3. The Rule

Upon consideration of the comments, the Commission concludes that it is not appropriate to mandate revenue recognition for gas provided by shippers for compressor fuel and other pipeline system use and used to provide transportation services.[39] Instead, each pipeline will have the discretion to determine whether it will recognize revenue for these transactions in its accounting records.

The Commission is taking this approach because of the apparent divergence between relevant accounting standards. In one view, as in the NOPR, these volumes represent an inflow of assets to the pipeline from delivery or producing goods, rendering services or other activities that constitute the pipeline's ongoing major or central operations. Recognition of an economic value for these volumes therefore meets the conceptual definition of revenues set forth in Statement of Financial Accounting Concepts No. 6, paragraph 78.[40] Therefore, it is conceptually appropriate to recognize gas received from shippers in exchange for transportation services as revenue. However, based on the filed comments, it is less than clear that current accounting standards for enterprises in general require such recognition. Hence, to avoid potential differences between pipeline financial statements filed with the Commission and financial statements issued to the public, the Commission will not mandate that

[38] For example, gas furnished by shippers to cover line losses incurred as part of the transportation service.

[39] The Commission is not setting forth the arguments of the commenters in light of the decision not to mandate a particular approach.

[40] Contrary to Panhandle's assertion, the fact that most of the gas may be used in pipeline operations simultaneously upon its receipt does not mean that it is not an asset. It means only that it is an asset momentarily—as the pipeline receives and uses it. See SFAC No. 6 paragraph 31 for a discussion of this phenomenon.

pipelines recognize shipper provided gas as revenue.

4. Entries—Revenue Recognition

Pipelines electing to recognize shipper provided gas as revenue must also recognize an equal amount of purchased gas expense. Pipelines would credit the appropriate transportation revenue account (Accounts 489.1 through 489.4)[41] and record an equal amount in Account 805, Other Gas Purchases.

5. Entries—Non Revenue Recognition

Although the Commission is not requiring revenue recognition for the volumes received from shippers, pipelines must recognize all gas consumed in compressor stations or used for other operational purposes in the appropriate expense accounts in accordance with existing Uniform System of Accounts requirements.[42] Contra-credits for these amounts are to be recorded in Account 810, Gas Used for Compressor Station Fuel—Credit, Account 811, Gas Used for Products Extraction—Credit, and Account 812, Gas Used for Other Utility Operations—Credit, as appropriate. This will result in comparability of transmission operating expenses among pipelines and will avoid the statistical anomalies that exist under current practices.[43] Further, the value of gas received from shippers under tariff allowances that is not consumed in operations nor returnable to customers through rate tracking mechanisms shall be credited to Account 495, Other Gas Revenues and charged to Account 805. Pipelines must simultaneously charge Accounts 117.3 or 117.4 as appropriate, with contra credits to Account 808.2, Gas Delivered to Storage—Credit.

6. Pricing

Since all pipelines must recognize the cost of shipper-supplied gas, it is necessary to determine the appropriate measure of such cost. In the NOPR the Commission stated that an appropriate measure of the revenues and cost of gas furnished by a customer for compressor fuel should be the cost that would have been incurred had the pipeline been required to purchase the gas itself. The Commission invited comments from the industry about whether a price index should be used, and if so, what would be the appropriate price index and how should it be applied.

INGAA maintains that there should not be a mandatory index for all pipelines, because of their different operations, locations, and contractual arrangements.

Panhandle supports an index that is reasonable for each pipeline and is applicable to all points on the pipeline. It argues that indices for different points would complicate the calculations and increase burden.

National Fuel submits that a pipeline should be able to use the index described in its tariff or an average if it uses different indices for cash-out purchases and sales.

CNG maintains that the ''Appalachian CNG Spot'' price as quoted in Natural Gas Intelligence is the best representation of the price of gas received onto its system. It submits that this price should be used for CNG and similarly situated pipelines in valuing fuel retained, gas used in company operations, storage encroachment, and transport and exchange imbalances.

Transco suggests that an industry-wide price index not be used. It proposes to use the same spot prices that it uses for its fuel tracker.

Columbia supports use of an index specific and applicable to the pipeline's primary supply area to value the fuel usage and retainage quantities supplied by customers.

Enron maintains that in calculating the expense reimbursement, pipelines should use existing tariff indices.

ANR stated that it was unreasonable to apply an arbitrary price to shipper supplied gas. Great Lakes stated that pipelines do not know the price shippers paid for the gas, and that indices do not necessarily reflect prices paid under different contracts. MRT and National Fuel opposed the assignment of arbitrary values to gas received for compressor fuel. INGAA stated that there should not be a mandatory index for all volumes as no one price index can reflect every pipeline's operations, geographic location or contractual arrangements.

Pipelines recognizing revenue and purchased gas expense for shipper provided gas should value such amounts at current market value. Values to be assigned to fuel consumed in compressor stations or used for other operational purposes should be similarly determined. The Commission agrees with commenters that use of a single index applied to all pipelines would not adequately recognize differences in gas prices between geographical regions. Instead, the Commission believes that the current market value must be determined by reference to the delivered spot price of gas as published in a recognized industry journal. The publication used must be the same one identified in the pipeline's tariff for use in its cash-out provision, if it has one. If the pipeline does not have a cash-out provision, the pipeline must use a publication representative of the cost of gas in its primary supply area, use the same publication consistently, and identify the publication in its records. Use of such values would allay any concerns as to whether the values recorded by a company on its books relate to the operations of that company.

7. Recordkeeping

Although the Commission did not propose any changes to the Uniform System of Accounts to account for shipper supplied gas, the Commission made it clear that the purchased gas accounts for retained gas must be so maintained that there will be readily available for each shipper and point of receipt, the quantity of gas tendered and the values assigned.

INGAA maintains that receipt point allocation of fuel to specific shippers will result in a significant increase in burden because pipelines do not track compressor fuel in that fashion. It states that many pipelines' tariffs state that fuel needs are calculated and collected on a zone or service basis. Great Lakes opposes the accounting for compressor fuel by shipper by receipt point when many pipelines operate under a mechanism where fuel is allocated by zones or service categories. It submits that such a calculation would involve burdensome assumptions and allocations, serve no useful purpose, and would be inconsistent with tariffs. KN maintains that the supporting information requirement will result in a significant administrative burden. It refers to its numerous receipt and delivery points within a contract for several shippers. ANR submits that the

[41] New revenue accounts 489.1, Revenues from Transportation of Gas of Others Through Gathering Facilities, 489.2, Revenues from Transportation of Gas of Others Through Transmission Facilities, 489.3, Transportation of Gas of Others Through Distribution Facilities, and 489.4, Revenues from Storing Gas of Others.

[42] For example, the cost of gas used for transmission compressor stations is to be recorded in Account 854, Gas for Compressor Station Fuel, and gas used for underground storage compressor stations is to be recorded in Account 819, Compressor Station Fuel and Power.

[43] For example, in 1994 Panhandle and Columbia moved 1.2 billion mcf and 1.3 billion mcf of gas respectively on their systems. While the volumes moved were approximately the same, the two pipelines reported widely disparate amounts for the cost of gas used in transmission compressor stations—$2.7 million for Panhandle and $28.7 million for Columbia. While the two pipeline systems are obviously different and therefore fuel usage can not be expected to necessarily correlate precisely with throughput, the figures adequately demonstrate the statistical anomalies and lack of comparability that results from different accounting and reporting practices.

calculation of fuel by shipper and receipt point would involve a number of assumptions and allocations that would be arbitrary, inaccurate, and burdensome and, therefore, would not serve any valid statistical basis. This is so, it says, because many pipelines calculate fuel by zone or service category. AGD requests that pipelines record both actual fuel consumed and fuel retained or paid for, on a rate schedule and rate zone basis.

The Commission concludes that it would be unduly burdensome for pipelines to maintain supporting information by receipt and delivery points within a contract for each shippers. Therefore, the Commission will revise the recordkeeping to require records to be maintained and readily available for shipper supplied gas on a rate schedule and zone basis.

8. Accounts—Revenue—Expense Account

In the NOPR the Commission stated that the expense account to be charged with the gas provided by shippers is the same purchased gas account that would have been charged if the gas was separately purchased in a cash transaction.

INGAA states that the choice of purchased gas account may become unnecessarily complex if the proposal is adopted, because the appropriate account will apparently be determined by the location of the receipt point for the compressor fuel. INGAA next asserts that if the Commission determines that pipelines must separately account for volumes received for fuel, it must establish appropriate accounts as a credit to expense.

Columbia recommends the use of one gas purchase account and one market rate rather than the multiple gas purchase Accounts 800 through 805. It would delete Accounts 800 through 804.

Based on the comments, the Commission concludes it would be an undue burden to require pipelines to classify these amounts according to the receipt point of the gas. Therefore, we are adopting Columbia's recommendation to permit the use of Account 805, Other Gas Purchases, to record such amounts.

C. Revenues

At present, a pipeline includes in Account 489, Revenues from Transportation of Gas of Others, ''revenues from transporting gas for other companies through the production, transmission, and distribution lines, or compressor stations of the utility.'' Service charges for the storage of gas of others are included in Account 495, Other Gas Revenues. (See Item No. 5 of Account 495). The Commission is deleting Account 489 in its entirety and Item No. 5 of Account 495 and replacing it with four new accounts. These are: Account 489.1, in which the pipeline would include revenues from transportation of gas through gathering facilities; Account 489.2, in which the pipeline would include revenues from transportation of gas through transmission facilities; Account 489.3, in which the pipeline would include revenues from transportation of gas through distribution facilities; and Account 489.4, in which the pipeline would include revenues from storing gas of others. In addition, the Commission is adding two new items to the list of items in Account 495 to (1) address recognition of gains on settlements of imbalances and (2) provide for the recording of penalty revenues.

The above changes are supported in whole or in part by INGAA, KN, Columbia, Panhandle, NGSA, and AGD. The Commission is adopting the above changes in order to appropriately record revenues from unbundled services. The Commission will address below specific concerns of some commenters and requests for clarification.

1. Accounts

Panhandle suggests that the Commission create a new Account 489.5 to cover other operating revenues. The Commission believes that there is no need to establish a fifth account in which to record other revenues since current Account 495, Other Gas Revenues, already adequately provides for revenues not includible in other gas revenue accounts. In this regard, the Commission is adding Item 9 to the list of items included in Account 495 to explicitly provide for the recording of penalties earned pursuant to tariff provisions, including cash-out penalties. This change codifies existing practice in the industry.

NGSA recommends that Account 495 be broken into subaccounts that represent the list of items proposed by the NOPR, including subdividing proposed new item 8, ''Gains on Imbalance Settlements,'' into five subaccounts, ''495.81 No-Notice,'' ''495.82, Exchange,'' ''495.83, Gathering'', ''495.84, Transportation,'' and ''495.85, Other (specify).'' AGD requests that the Commission direct the companies to keep separate sub-accounts in Account 495 for shipper imbalances, so that these amounts can be properly scrutinized in rate cases. The Commission will not adopt NGSA's or AGD's recommendations. This level of subaccount detail is unduly burdensome.[44] However the Commission will require pipelines to maintain a separate subaccount within Account 495 for gains from settlement of imbalances. The Commission's decision not to require additional subaccounts does not relieve the pipeline of its burden to keep its books and records so as to be able to furnish readily full information for any item included in any account.[45]

KN asks for clarification on how to account for no-notice service revenues because no-notice service combines storing gas and transporting gas. The new accounts require classification of revenues according to the type of service or services provided. For example, revenues from no-notice service that is predominantly transportation should be recorded in Account 489.2, Revenue from Transportation of Gas of Others through Transmission Facilities, whereas revenues from no-notice service that is billed under a separate storage rate schedule should be recorded in Account 489.4, Revenues From Storing Gas of Others. Revenues from no-notice services which combine transportation and storage services, such as KN's Rate Schedule NNS, should be recorded in Account 489.2.[46]

2. Accounting for Gains and Losses

In the NOPR, the Commission proposed to include gains on settlements of imbalance receivables in Account 495, Other Gas Revenues. Losses were to be included in Account 813, Other Gas Supply Expenses. Additionally, the Commission proposed that gains recorded in Account 495 that are to be passed along to customers in future periods were to be offset by charging Account 407.3, Regulatory Debits, and crediting Account 254, Other Regulatory Liabilities. In a similar fashion, losses that are to be passed along to customers in future periods were to be offset by crediting Account 407.4, Regulatory Credits, and charging Account 182.3, Other Regulatory Assets.

Panhandle objects to the recording of gains on imbalance transactions that are to be passed through to customers in Account 495, Other Gas Revenues, because it could create additional state

[44] Similarly the Commission concludes it would be unduly burdensome to require pipelines to establish separate subaccounts for administrative and general expenses involving affiliates merely to aid rate case proceedings as requested by AGD.

[45] See 18 CFR Part 201, General Instruction No. 2, Records. (1995)

[46] Form 2 page 305 footnote 6 specifies that revenues from bundled transportation and storage services should be reported in Account 489.2.

gross receipts tax expense due to the increase in reported revenues. It adds that the Commission would need to provide a gross-up factor to allow pipelines appropriate cost recovery.

Williston opposes new item 8 of Account 495 as part of its opposition to the Commission's treatment of gains and losses on the settlement of imbalance receivables in Accounts 495, 806, Exchange Gas, and 813 (see *infra*). It states that settlements of imbalances and exchange transactions flow through the company's imbalance tracking mechanism and no gains or losses are recognized. It requests the Commission to allow pipelines that account for such gas through an imbalance mechanism the flexibility to continue accounting for settlement units of imbalance receivables pursuant to their current procedures.

The Commission will modify its proposed accounting for gains and losses on imbalance transaction in instances in which a pipeline's tariff requires that such gains and losses be passed along to customers. Rather than initially recording a gain or loss (in Account 495 and Account 813, respectively and separately deferring the gain or loss as a regulatory asset or liability (by charging Account 407.3, Regulatory Debits, or crediting Account 407.4, Regulatory Credits, respectively), the Commission will require pipelines to record the gain or loss on imbalances directly in Account 254, Other Regulatory Liabilities, or Account 182.3, Other Regulatory Assets, as appropriate consistent with Order No. 552.[47] This modification should satisfy both Panhandle's and Williston's concerns.

D. Gas Supply Expenses

The Commission is revising Account 806, Exchange Gas, so that it will include debits or credits for the cost of gas in unbalanced transactions and not just unbalanced exchange transactions. Such unbalanced transactions would be those whereby gas is delivered to another party in exchange, load balancing, or no-notice transportation transactions. The cost of exchanged gas is to be determined from the current market price of gas at the time the gas is tendered for transportation. Contra entries to those in Account 806 will be made to Account 174, Miscellaneous Current and Accrued Assets, and Account 242, Miscellaneous Current and Accrued Liabilities.

As recommended by commenters, the Commission is modifying its proposed rule to require that records be maintained only by customer, quantity and cost of gas delivered and received, rather than by point of receipt and delivery. Additionally, the Commission is moving the requirements for the recording of gains and losses on settlement of receivables and payables to the text of Accounts 174 and 242. The comments are discussed below.

1. Recordkeeping

INGAA recommends that imbalance data be kept by category or on a contract basis. CNG maintains that the level of detail and tracking by customer is too burdensome. Williams contends that tracking transportation balances on a transaction-by-transaction basis is administratively very burdensome and not required for regulatory purposes. MRT maintains that data on load-balancing or no-notice transportation is maintained by quantity (not value of gas) and not broken down to the specific receipt point level.

The Commission concludes that it is appropriate to require information by customer of the quantity and cost of gas delivered and received. This information would be that typically maintained by pipelines in any event to support their receivable and payable balances, and should not result in an additional burden. Conversely, since the Commission does not have a regulatory need for information by point of receipt and delivery, it will not adopt the NOPR proposal to require pipelines to maintain such information. In response to MRT's assertion, the Commission is not proposing a new requirement to maintain the cost of exchange transactions; it has always required pipelines to record the cost, as well as the quantity of exchanges. Cost information is essential in determining the pipeline's expenses as well as its exchange receivables and payables. Therefore, the Commission will continue to require the recording of the cost of imbalance transactions.

Panhandle generally agrees with the proposal but maintains that the Account 806 instructions create needless difficulties. It asserts, ''While Account 806 records only imbalance activity settled by receipt or delivery of gas, paragraph C of the account description includes a burdensome record-keeping procedure that requires records to be maintained for quantities and consideration, by receipt and delivery point, for all imbalance activity, including imbalances settled in cash.'' It also ''believes the procedures should not be included in the instructions to Account 806. The detail requested in the instructions will not track the entries made to Account 806 if cash-out transactions are excluded from this account.'' It ''suggests the required record keeping be dropped due to the excessive burden or, if there is some demonstrated need for this activity, the requirement should be moved elsewhere in the Uniform System of Accounts to avoid confusion about the makeup of Account 806.''

The Commission agrees with Panhandle that the proposed instructions to Account 806 require pipelines to maintain detailed information on all exchange transactions, including non-gas exchanges, *e.g.,* exchanges settled in cash. Panhandle correctly maintains that because cash-out transactions would not be included in Account 806, the proposed detailed records would not track the entries to Account 806. Therefore, the Commission will adopt Panhandle's suggestion to move the detailed recordkeeping requirements for cash-out transactions to other accounts. Those recordkeeping requirements will be moved from Account 806 to Accounts 174 and 242. Accounts 174 and 242 are the accounts used to record all exchanges, including non-gas transactions.

2. Valuation

In the NOPR the Commission proposed that Account 806 include the cost of gas in unbalanced transactions determined from the current market price of gas at the time gas is tendered for transportation.

Columbia agrees with the proposed Account 806 but maintains that gas should be priced at its value and not its cost because it incurs no cost.

The Commission concludes that the amounts recorded in Account 806 should be based on the measurement attribute of the gas received or delivered in the exchange. If gas delivered in an exchange has been priced on a historical cost basis (which would include gas withdrawals from storage priced on an inventory method), the amounts to be recorded in Account 806 should be based on the historical cost of the gas. If gas delivered in an exchange is priced at current market value (which would be the case for gas withdrawals from storage priced on a fixed asset method), the amount to be recorded in Account 806 would be the current market value. Exchange gas received that is *not* a satisfaction of an existing exchange gas receivable should be recorded in Account 806 at current market value.

3. Accounting Recognition of Exchanges

The NOPR did not address the appropriate accounting recognition for exchanges involving customer-owned gas.

[47] III FERC Stats. & Regs. ¶ 34 967 (1993).

Williams states that under FERC Order No. 636, it retained storage *capacity* for system balancing purposes, but did not retain an investment in its working gas in storage. Williams argues that because it does not take title to gas flowing on its system, it need not price [record] transportation imbalances. Williams recognizes that it has an operational obligation to redeliver gas to the owner; however it submits that it has no recordable liability under GAAP. Williams also maintains that it should not record a positive customer imbalance just as it does not record gas injected into storage because both represent inventory on consignment.

Williams' arguments for not recording transportation imbalances appears similar to Columbia's request for clarification of the use of Account 117.4. Both companies address the situation in which a pipeline uses customer supplied gas to meet imbalances. As with Columbia, it appears that Williams has an arrangement with its customers which allows Williams to use its customers' gas for balancing purposes. Accordingly, Williams (and any other similarly situated pipeline) must record amounts in Account 117.4 only after customer gas available to the utility for system balancing purposes has been exhausted. Williams (and any other similarly situated pipeline) should record a receivable and payable for all customer gas that is used to meet exchange imbalances to reflect its right to receive gas from one shipper and its obligation to provide gas to another shipper.

4. Imbalance Sub-Accounts

The Commission proposed revisions to Account 806 to include the cost of gas in all unbalanced transactions, but did not propose any new subaccounts of Account 806.

AGD states its concern that the Commission's changes might result in higher rates by claims for excessive amounts associated with imbalance issues. It requests separate subaccounts to Accounts 813, 806, and 495 to permit proper scrutiny in rate cases.

NGSA suggests renaming Account 806 as ''System Gas'' because exchanges are only one specific component of this account. It also suggests subaccounts for Account 806 for no-notice (806.1), Exchange (806.2), Gathering (806.3), Transportation (806.4), and 806.5. (other specify) [48] It states that these should be reported by rate schedule.

The Commission will not rename Account 806 as suggested by NGSA because the only amounts to be reflected in Account 806 are for exchange imbalances. Neither will the Commission prescribe separate subaccounts of Account 806 as proposed by AGD and NGSA, as this level of subaccount detail appears unduly burdensome. However, as required by General Instruction No. 2 of the Uniform System of Accounts, pipelines must maintain their books and records so as to be able to readily furnish full information as to any item included in Account 806. This information should be adequate to allow the Commission to address claims by pipelines associated with imbalance issues and thereby satisfy AGD's concerns.

5. Gas Losses

The Commission did not propose new accounts for the recording of gas losses other than those related to storage. NGSA suggests the Commission include a separate transmission expense account for gas losses. KN maintains that an account is needed for gas losses for transmission, gathering, and distribution similar to Account 823 for storage. The Commission agrees that it is necessary to designate an account for non-storage gas losses. Therefore, the Commission is revising the text of Account 813, Other Gas Supply Expenses, to provide for the recording of losses of system gas not associated with underground storage.

6. Rates

The Commission did not address potential ratemaking issues in this rulemaking.

Some commenters expressed ratemaking concerns. NI–Gas submits that any change to existing tariff mechanisms must be handled through an appropriate tariff filing. AGD asks for clarification that the Commission's accounting standards are not determinative of the rate treatment of the recorded amounts.

This rule is establishing accounting that is intended to measure and recognize the economic effects of transactions, events and circumstances affecting pipelines. While the final rule is expected to provide information useful for ratemaking purposes, the Commission's financial accounting requirements do not necessarily dictate how costs related to the transactions, events or circumstances should enter into the determination of rates. Ultimately the manner in which costs are considered for ratemaking purposes is a matter to be resolved in a rate proceeding.

7. Other Issue

Several commenters requested clarification as what type of imbalances are to be included Accounts 806 and 813.

Account 806 will include all imbalances, including those arising from unbalanced transactions whereby gas is delivered to another party in exchange, load balancing, or no-notice transportation transactions. As stated in Footnote 12 of the NOPR, system balancing refers to those situations where the pipeline provides gas from its own source of supply in order to meet deficiencies caused by a shipper tendering less volumes to the pipeline at the receipt point than it takes from the systems at the delivery point. The term can also be used to refer to situations where the shipper tenders more volumes than it takes from the system. Account 813 will include losses on settlement of imbalance transactions.

E. Major/Nonmajor Accounts

The Commission is eliminating all Nonmajor accounts in the Uniform System of Accounts and is requiring all natural gas companies to use the same accounts. The Commission is, thus, also changing the Major accounts to eliminate their application to Major natural gas companies only and is revising the instructions, notes, and items accordingly. In addition, as discussed below, the Commission is revising Form No. 2–A to require Nonmajor respondents to file certain Form No. 2 pages as their Form No. 2–A report. The Commission is revising part 158 of the regulations to delete the references to Major and Nonmajor in sections 158.10 and 158.11.

INGAA and KN support the elimination of Nonmajor accounts in the Uniform System of Accounts. No commenter opposes it.

F. Mcf to Dth

At present, the Uniform System of Accounts requires reporting volumes by Mcf. The Commission is amending the Uniform System of Accounts where applicable to measure gas by dekatherms rather than by Mcf to reflect the current measurement of gas by heat content rather than by volume.

INGAA and others [49] support the change from Mcf to Dth in gas measurement. Kern River, however, maintains that its measurement standards should not be changed from volumetric to thermal. A significant majority of pipelines state their rates on the basis of either MMBtu or Dth. Only a few pipelines continue to state their

[48] See also Accounts 164, 174, and 808.10, 808.20, and 813 for similar subaccount proposals.

[49] KN, Columbia, NGSA, and Panhandle.

rates in Mcf. The Commission earlier adopted in section 284.4 of its regulations MMBtu measurement base for all reports submitted under Part 284. The change to the regulations in this rulemaking is intended to expand on the Commission's earlier action and reflect the prevalent practice in the industry. However, some of the remaining companies may perceive a hardship in switching from Mcf to Dth or MMBtu. Those companies may seek waiver of this provision. The Commission will consider any arguments set forth by those companies at that time.

Transok agrees with the change from Mcf to Dth, but it suggests that the Commission ''require uniform measurement of dekatherms at a specific pressure base, *i.e.* 14.65 psia, a specific temperature base, *i.e.* sixty degrees Fahrenheit (60°F), and specific Btu water content measurement, *i.e.*, dry or saturated.'' [50] It submits that this will provide uniform reporting so that precise comparisons can be made between pipelines. Even though pressure, temperature, and water content affect the heating value of gas, the Commission will not require uniform reporting because pipeline tariffs do not contain a standard definition of heating value.

G. Merchant Accounts

Several commenters point out that state public utility commissions have required utilities under their jurisdiction to adopt this Commission's Uniform System of Accounts and Form 2. Missouri requests that the Commission retain the requirements related to the purchase and sale of natural gas, at least during a 2–3 year transition period. PG&E maintains that the revised Uniform System of Accounts is inconsistent with the role and needs of LDCs. It submits that it is not adequate in some instances (*e.g.*, no accommodation for bundled sales) and onerous in others (*e.g.*, tracking the cost of gas used for imbalance transactions for each customer each month on a FIFO inventory basis). It suggests that the Commission either establish separate accounts that support the accounting and reporting functions of transport-only and non-transport-only pipeline companies respectively or retain accounts that support the continuing merchant functions of LDCs. Last, PG&E suggests convening a technical conference to explore maintaining uniform accounting practices in the natural gas industry. Columbia Distribution suggests the Commission consult with the National Association of Regulatory Utility Commissioners and use an extended transition period. Consumers Power also maintains that elimination of the sales accounts would result in regulatory confusion because LDCs would have to use accounts that were not intended to reflect the sales function. It believes the Commission should retain the account numbers that relate to the merchant function.

Missouri also submits that pipelines are not prohibited from acting as merchants and, therefore, the existing gas purchase and sale accounts and reporting requirements should be retained. It states that a pipeline can indicate that those requirements are not applicable to its circumstances. AGA maintains that certain LDCs and pipelines still provide a merchant function and hence none of the sales accounts should be eliminated.

The Commission's reason for deleting the Form No. 2 schedules reporting merchant activities is to recognize that pipelines for the most part are now engaged in transportation activities and not sales. Hence there is no longer a need for such schedules. While it is true that two pipelines and many LDCs engage in merchant activities, they may continue to retain the deleted schedules if needed for reporting to other jurisdictions. None of the merchant accounts have been eliminated from the Uniform System of Accounts and so they may still be used for this purpose. However, for the Commission to retain these Form No. 2 schedules implies they are still needed for the Commission's regulatory activities, which is not the case. Therefore, the Commission will delete these schedules as proposed in the NOPR. Last, the Commission sees no need to convene a technical conference.

H. Index

MRT requests that the Commission consider developing a subject matter index to Parts 201 and 216 as an aid to pipelines in complying with these regulations.

The Commission believes that the current Charts of Accounts and headings are adequate.

IV. Part 158 (CPA Certification Statement)

The Commission is to remove the designations ''Major and Nonmajor'' from sections 158.10(a) and 158.11. In addition, the Commission is requiring independent licensed public accountants to be licensed on or before December 30, 1970, as is the case in current section 158.10(b). Moreover, the Commission is deleting present section 158.10(b). Further, the Commission is revising section 158.11 to require the filing of the independent accountant's letter or report of certification with the original and each copy of the Form No. 2 or Form No. 2–A rather than having the option to file it with the original or within 30 days after the filing of the Annual Reports as is the case now. Last, the Commission is revising section 158.12 to remove an outdated provision.

Columbia objects to the revised Part 158 as potentially broad in scope and views it as unclear whether the intent is to modify the current scope or report of the independent certified public accountant in issuing its opinion on the Form No. 2. It argues that the proposed revisions to section 158.10 with respect to the independent accountant identifying questionable matters and to section 158.11 with respect to the independent accountant's letter or report certifying approval make no mention of the significance or materiality of the issues to be identified. It next maintains that the statements could be interpreted as requiring the independent accountant to, in effect, perform a compliance audit. It argues that it is entirely inappropriate for the Commission to modify the scope of the work at present performed by the independent accountant or to require a report inconsistent with Generally Accepted Accounting Standards. It asserts that the accounting firm should be required only to opine that the Form 2 pages are, in its opinion, fairly stated and, if not, explain the deviation in an explanatory paragraph, if it is significant or material with respect to the Uniform System of Accounts.

Columbia also objects to Part 158's statement ''that the independent accountant will seek advisory rulings by the Commission on such [questionable] items.'' It maintains that it is the responsibility of management to resolve questionable accounting and reporting issues. It is not the function of the independent accountant to do that without management's authorization or to perform compliance audits with the Commission.

The changes to Sections 158.10 and 158.11 of our regulations do not modify the current scope of work of the independent certified public accountant in issuing its opinion on the Form 2. In addition, the Commission is not requiring a report inconsistent with Generally Accepted Auditing Standards. To the contrary, these changes, together with other Form-2 reporting changes discussed infra, will permit our certification requirements to be met in a manner consistent with the reporting requirement standards under Generally Accepted Auditing Standards.

[50] Comments at 5.

The Commission has addressed the issue of significance or materiality in Instruction No. III(c)(i) of the revised Form No. 2, which requires that a letter or report be submitted which will ''* * * contain a paragraph attesting to the conformity, in all material aspects, of the below listed schedules * * *.''

With respect to identifying questionable matters and seeking advisory rulings, those provisions are unchanged and relate to the early resolution of questionable matters to aid the certification process. Whether an independent accountant will seek such a ruling on any item is for it to determine in appropriate consultation with the respondent.

V. Part 250

Part 250 of the Commission's regulations specifies the use of certain forms for accomplishing specific actions. As further described below, the Commission generally is simplifying, updating, or eliminating certain sections of Part 250 to reflect current regulatory practice, and the deregulation of the wellhead gas market.

However, in the NOPR, the most significant change that the Commission proposed to Part 250 was the removal in section 250.16 (Format of compliance plan for transportation services and affiliate transactions) of the transportation discount information that a pipeline transporting gas under subparts B or G of Part 284 and conducting discounted transportation transactions with a marketing or brokering affiliate must maintain for each billing period. The Commission proposed to eliminate the discount reporting requirements from section 250.16(d) because they replicate to some extent the information required by the discount reports under section 284.7(d)(5)(iv). The Commission had proposed to modify section 284.7(d)(5)(iv) (proposed section 284.7(c)(6)) to include, among other things, most of those requirements currently required under section 250.16(d) that are not already duplicated in section 284.7(d)(5)(iv). Thus, the Commission proposed to delete section 250.16(d) as unnecessary.

As discussed in greater detail *infra,* cthe Commission is not adopting the proposal to expand section 284.7 to include the requirements of 250.16(d). Consequently, the Commission must retain section 250.16(d). Therefore, the Commission is not adopting the proposal to delete that section. The Commission will continue to rely on the two, separate requirements—one reporting and one records maintenance—to ensure nondiscriminatory discounting of firm and interruptible transportation.

However, the Commission is deleting two items of transportation discount information from section 250.16(d). We do not need to require pipelines to include in the discount report the shipper's designation, such as local distribution company, intrastate pipeline, end-user, etc., or the affiliate relationship between the pipeline and the shipper. This information can be determined from other, public sources, and therefore, its exclusion will not affect the Commission's ability to effectively monitor affiliate discounts.

Most commenters responded to the proposed changes to the discounting reporting requirements with comments addressing the new, proposed reporting requirement, section 284.7(c)(6). The commenters that express support for the deletion of section 250.16(d), such as SoCal and APGA, also support the proposed changes to section 284.7. In other words, no party argues for the deletion of section 250.16(d) even if section 284.7 is retained in its present form.[51]

However, NGSA objects to the removal of 250.16(d). NGSA fears that the submergence of information on affiliated deals within information on all discounted transportation programs will provide pipelines a greater degree of obscurity within which grants of affiliate preference may go unnoticed. Our retention of section 250.16(d) satisfies these concerns.

Finally, in paragraphs (c)(3) and (d)(2) of section 250.16, the Commission is deleting reference to the Commission's street address.

The Commission is modifying the following other sections of Part 250, as described below. Essentially, these modifications either update the forms to conform to current regulatory practice, or eliminate the forms related to the regulation of producers and gatherers, since the wellhead gas market has been finally deregulated and such forms are required by regulations that have been removed in Parts 154 and 157.

Section 250.2 sets forth the forms required under section 154.64 (new section 154.602) for notification to the Commission of a cancellation of a filed tariff or part thereof, or a termination of the tariff by its own terms, when no new tariff or part thereof is to be filed in its place. The Commission is simplifying and clarifying section 250.2 by stating that the notices of cancellation to be used when canceling an entire tariff or an entire rate schedule should be filed as a tariff sheet. Currently, the existing forms themselves include the header and footer information normally associated with a tariff sheet, which is unnecessary and confusing.

In addition, the Commission is modifying section 250.2 by eliminating the requirement that a specific form be used when providing notice of the cancellation of individual tariff sheets. Rather, section 250.2 will provide that when a single sheet is canceled, it should be reserved for future use. This does not represent a substantive change, but more accurately represents the current practice in canceling a tariff sheet, and will allow the sheet to conform better to the Commission's electronic tariff sheet filing requirements.

Section 250.3 specifies the form required under section 154.64 (new section 154.602) for notification to the Commission of a cancellation or termination of a contract, or executed service agreement. The Commission is changing the current instruction in the form to indicate the ''name of purchaser or purchasers'' to an instruction to indicate the ''name of customer or customers.'' The use of ''customer'' rather than ''purchaser'' better reflects the shift in today's gas market from sales to transportation service.

The Commission is modifying the headings of sections 250.2, 250.3, and 250.4 (governing the form of the certificate of adoption required under existing section 154.65 (new section 154.603) to be used when the tariff or contracts of a natural gas company are to be adopted by a successor entity) to refer to the new section numbers of the regulations from which their authority stems, since the Commission, in the companion rulemaking, is redesignating the referenced sections of Part 154. Thus, the reference in sections 250.2 and 250.3 to section 154.64 is changed to section 154.602, and the reference in section 250.4 to section 154.65 is changed to section 154.603. In section 250.4, the Commission is also modifying the line indicating the date of the form of certificate of adoption by removing the year indicator of ''194—.''

Many of the forms set forth in Part 250 relate to the filing requirements of natural gas producers and gatherers under Parts 154 and 157 of the Commission's regulations. Specifically, section 250.5 specifies the form of contract summary required to be filed under section 154.24(a) by independent producers applying for a certificate of public convenience and necessity under section 7 of the NGA for the transportation, or sale for resale, of

[51] Columbia notes its support for the deletion of section 250.16(d), but is silent with respect to the proposed modifications to section 284.7.

natural gas in interstate commerce. Section 250.7 specifies the form of contract summary required to be filed under section 157.30(b) by independent producers seeking abandonment authorization. Section 250.8 specifies the form for the summary of contract information required by section 154.92(d) to be filed by independent producers seeking authority to provide natural gas service, previously authorized by the Commission, as a successor-in-interest. Section 250.9 specifies the form of notice required under section 154.97(a) to be filed by an independent producer when a rate schedule is proposed to be cancelled, or will terminate by its own terms, and no new schedule is to be filed in its place. Section 250.10 specifies the form required to be filed under section 157.40(b)(4) by independent producers applying for a small producer exemption from certain filing requirements. Section 250.14 specifies the form of the initial billing statement required under section 154.92 to be filed with the filing of a rate schedule by every independent producer, and the form required under section 154.94(f) to be used by an independent producer seeking a change in its rate schedule.

All of the above-referenced sections of Parts 154 and 157 have been removed from the Commission's regulations by Order No. 567, issued July 28, 1994, in Docket No. RM94–18–000.[52] Order No. 567 deleted certain regulations related to natural gas producer rate regulation that were either obsolete or nonessential in light of the deregulation of wellhead gas prices under the Natural Gas Wellhead Decontrol Act of 1989,[53] that finally occurred on January 1, 1993. Since the regulations requiring that independent producers make certain filings, and in specific forms, have been deleted, sections 250.5, 250.7, 250.8, 250.9, 250.10, and 250.14 of part 250, setting forth the actual forms, will also be deleted. Thus, the Commission is removing these sections.

The Commission is also removing section 250.12, governing the form of escrow agreements. This regulation was originally promulgated by Order No. 400, issued April 28, 1970, in Docket No. R–376. It is rarely used. In the instances in which companies are required to place funds in escrow, the Commission will determine in the proceeding establishing the escrow requirement, the form of the escrow agreement, and whether the form should be filed with the Commission.

In the NOPR, the Commission invited comments from parties who believe it would be useful to retain a form of escrow agreement, or suggestions as to how this regulation could be modified to become more useful, rather than eliminated.

Only two parties commented in response to the Commission's inquiry. Missouri states that it has no concerns with the removal of this section as long as the Commission will still require the placement of funds in escrow when it deems such a remedy appropriate. Missouri believes that establishing the requirements for such an escrow arrangement in the proceeding where it is found appropriate is acceptable. The Industrials, however, object to the elimination of the form of escrow agreement in its present form from the regulations. They urge the retention of the escrow agreement due to its value in preserving ratepayers' refunds. They argue that if a case arises in which a modification to the form may be appropriate, the changes to the agreement may be addressed at the time it arises in the individual proceedings.

The intent of the Commission's inquiry in the NOPR was to determine whether there was support for retention of the escrow agreement in its present form, or for adoption of a different form of escrow agreement, instead. None of the comments suggested a more appropriate form of escrow agreement. Rather, the parties' comments reflected concern that the Commission was proposing to eliminate altogether the use of escrow agreements to preserve ratepayers' refunds. The Commission's inquiry was not intended as a referendum on the utility of escrow agreements. The removal of section 250.12 does not prejudge the usefulness of an escrow agreement in a particular proceeding. The decision whether an escrow agreement should be imposed in a particular proceeding will have to be made in that proceeding, whether section 250.12 is retained or not. The elimination of the form of the escrow agreement should not impact the availability of escrow agreements or degree to which they are utilized. Therefore, since no comments were received suggesting why the current form of escrow agreement should be retained, or any improvements to the form of escrow agreement, the Commission will remove this section of the regulations.

Finally, the Commission is changing all references in Part 250 from the ''FPC'' and the ''Federal Power Commission'' to the ''FERC,'' and to the ''Federal Energy Regulatory Commission,'' respectively.

VI. Part 260

The provisions of Part 260 require that pipelines file certain forms and reports with the Commission, such as the FERC Form Nos. 2, 2–A, 11, and 549–ST. As further discussed below, the Commission is modifying the actual Form Nos. 2, 2–A, and 11, and various sections of Part 260. The changes to Part 260 are designed to update these reporting requirements to reflect current regulatory practice, and to conform these prescriptive requirements to the changes to the other parts of the Commission's regulations in this rule.

A. Revisions to Form No. 2

The Commission is revising Form No. 2 for a variety of reasons. First, it is desirable to update Form No. 2 by deleting unneeded schedules, or individual data elements, by clarifying and modernizing schedules and instructions, and by increasing the thresholds for the reporting of certain information. Second, it is vital to revise Form No. 2 to accurately present the restructured nature of the natural gas pipeline industry, which is primarily focused on the transportation of gas rather than the sale of gas. Only then will the Form No. 2 provide more useful and relevant information to the Commission and to pipeline customers for the assessment of pipeline operations. A sample copy of the revised Form No. 2 is attached as Appendix B.

The specific changes the Commission is making are:

General Information—Pages i and ii

The Commission is requiring Form No. 2 to be filed by each major interstate natural gas company having combined gas transported or stored for a fee exceeding 50 million dekatherms (Dth) in each of the three previous calendar years. This will replace the present requirement that Form No. 2 must be filed by major companies which are those having combined gas sold for resale and gas transported or stored for a fee exceeding 50 million Mcf at 14.70 psia (60°F) in each of the three previous calendar years. The elimination of ''gas sold for resale'' reflects the current nature of the pipeline industry, in which pipelines are primarily transporters of gas and make sales for resale on an unbundled basis in the supply area. The replacement of Mcf with Dth reflects the current measurement of gas by heat content rather than by volume.

The Commission also is revising the first two sentences of Instruction 1 on page i to eliminate as not needed the

[52] 68 FERC ¶ 61,135 (1994).

[53] Pub. L. No. 101–60; 103 Stat. 157 (1989).

statement that Form 2 is a regulatory support requirement. The last sentence in Instruction 1 is being revised to eliminate the reference to the Energy Information Administration's statistical publication (Financial Statistics of Interstate Natural Gas Pipeline Companies). The first sentence in Instruction II on page i is being revised to read ''Each major natural gas company that meets the requirements of 18 CFR 260.1 must submit this form.'' The Commission is revising Instruction III (a) to include the present requirement for filing on an electronic medium.

The Commission is changing Instruction III(c) to replace the present Certified Public Accountant (CPA) certification statement with a flexible format that will enable the respondent's CPA firm to prepare its certification statement in accordance with current standards of reporting and still attest as to the conformity of listed FERC Form No. 2 schedules with the Commission's Uniform System of Accounts and the Chief Accountant's published accounting releases. In addition, the Commission is requiring that the letter or report required by Instruction III(c) for the CPA certification be submitted with each copy as well as with the original submission and be submitted with that submission rather than alternatively within 30 days after the filing date for Form No. 2.

INGAA supports the above-described revisions. AGD maintains that the schedule on page 108, ''Important Changes During the Year'' should be covered by the audit report by including this page on page (i) in the list of schedules to which the independent auditor attests.

AGD also suggests that, once the Commission updates its electronic filing capabilities, pipelines be required to file their Form No. 2 electronically and that this filing include all backup data that supports and elucidates the Form No. 2 information. It believes this monthly data is critical to detect trends, spot nonrecurring items, test the reasonableness of base period actuals, and determine the need for a Section 5 complaint. It also suggests that pipelines post their Form No. 2 filing on their electronic bulletin boards. Last, AGD submits that the Commission should establish new accounts to track computer system expenses.

The Commission does not agree that page 108 should be covered by the independent auditor's attestation. The purpose of the CPA certification requirement is to obtain an independent verification that the basic financial statements in the Form No. 2 and 2–A were prepared in conformity in all material respects with the Commission's Uniform System of Accounts and published accounting releases. Page 108 requires the reporting of information that is not required to be disclosed on the face of the financial statements or the accompanying notes. To include this page as part of a CPA certification would require expanding the scope of the work conducted by the CPA beyond what was necessary to attest to the conformity of the financial statements to Uniform System of Accounts' requirements. Therefore the Commission will not adopt AGD's request. In addition, the Commission believes the additional burden that would be imposed would be greater than the benefit to be realized from it. The Commission therefore rejects the inclusion of page 108 as part of the independent auditor's attestation.

The Commission concludes that AGD's electronic filing suggestions would be too burdensome. Therefore, although the Commission requires pipelines to file Form No. 2 on electronic media, it will not expand the scope of the electronic filing requirements to include all supporting data or to require posting on an electronic bulletin board. In addition, the Commission will not establish new accounts to track computer system expenses because existing accounts are adequate for this purpose.

KN would eliminate all paper copies where electronic filings are required. Paper copies are still needed because not all respondents have electronic capability this time.

General Instructions—Page iii

The Commission is replacing Mcf with Dth in General Instruction II on page (ii) and ''14.73 psia and a temperature base of 60°F'' with ''in Btu and Dth,'' in General Instruction XII on page (iii). The Commission also is deleting General Instruction V with respect to the means of completing the report as outdated and unnecessary.

INGAA supports the above described revisions.

Definitions—Page iv

The Commission is defining dekatherm as a unit of heating value equivalent to 10 therms or 1,000,000 Btu.[54]

INGAA supports the above-described definition.

Excepts From the Law—Page iv

The Commission is correcting the quoted language of the Natural Gas Act.

INGAA supports this correction.

List of Schedules (Natural Gas Company)—Pages 2–3

The Commission is revising the list of schedules to conform with the changes to the schedules adopted by this NOPR. No comments were filed.

Control Over Respondent—Page 102

The Commission is revising the instructions and providing a format for information required with respect to entities controlling the respondent natural gas company to provide better reporting of the vertical integration of the respondent and its parents.

The Commission is deleting referencing the SEC 10–K Report Form because most respondents are included in consolidated reports and do not prepare separate SEC 10–K reports.

INGAA would allow referencing the SEC 10–K report. It would clarify that the instruction refers to a direct link between the holding company and the respondent. Missouri submits that the pipelines should report information about affiliate relations of other companies controlled by the pipeline's parent. It suggests including the name, manner of control, extent of control and a brief description of the business purpose.

Panhandle maintains that this schedule should be deleted because material matters will be described in financial footnotes.

The Commission is removing the ability of pipelines to reference the SEC 10–K reports for information because such references in the past have been inadequate for regulatory purposes. The Commission's experience has shown that the information contained in a respondent's parent's SEC 10–K generally has not provided the detail on the respondent that is needed by the Commission. Therefore, the Commission is rejecting the arguments that it not adopt the NOPR's proposed deletion of the respondent's ability to reference the SEC 10–K reports for information. Further, based on past filings, the Commission believes that the information to be required on page 102 will not be included in sufficient detail (if at all) in the footnotes to the financial statements for Commission regulatory purposes. The Commission will therefore require the information to be reported on page 102. On the other hand, requiring the respondents to report information about affiliates of other companies controlled by the pipeline's parent appears to be beyond what is needed for regulatory purposes at this time. Therefore, the Commission will not adopt Missouri's suggestion to

[54] Btu refers to British Thermal Unit—the quantity of heat required to raise the temperature of one pound of water by one degree Fahrenheit.

require the reporting of such information.

Corporations Controlled By Respondent—Page 103

The Commission is deleting instruction 4, which permits referencing the SEC 10–K Report Form filing for the reason stated above. The Commission also is adding a new instruction 4 and new column (b) for designation of the type of control held by the respondent. The Commission is relettering columns (b)–(d) as (c)–(e).

INGAA would allow referencing the SEC 10–K report. Panhandle would delete this schedule because material matters will be disclosed in financial statements.

The Commission is adopting the changes proposed in the NOPR for page 103 for the reasons given for adopting the proposals for page 102.

Officers—Page 104

The Commission is deleting this page because it is not needed for Commission regulatory purposes.

INGAA supports deletion of this schedule.

Directors—Page 105

The Commission is deleting this page because it is no longer needed for Commission regulatory purposes.

INGAA supports deletion of this page.

Security Holders and Voting Powers—Page 106 (Now 107)

Panhandle would delete this page because material matters will be disclosed in financial footnotes.

Based on past filings, the Commission believes that information sought by the instructions to page 106 will not be presented in the notes to the financial statements in the detail needed for Commission regulatory purposes. Therefore, this page will be retained.

Security Holders and Voting Powers (Continued)—Page 107

The Commission is deleting this continuation page because it is not needed with electronic reporting since supplemental pages can be added if more space is needed.

INGAA supports deletion of this page.

Important Changes During the Year—Page 108

The Commission is deleting item 12, which allows the respondent to substitute notes from the annual report to stockholders for required data because the Commission's experience shows those notes to be inadequate or unresponsive due in part to the fact that many respondents are included in consolidated reports to stockholders and do not prepare separate annual reports.

INGAA suggests deleting page 108 because the information is reported in the Notes to Financial Statement. Panhandle would also delete this page because material matters will be disclosed in financial statements. Williston asserts that the information required in item 8 is proprietary and that item 11 should be deleted because it is misleading due to the timing of final Commission rate orders and the impact on reserves for refund purposes.

The Commission does not agree with INGAA or Panhandle that the information reported in the Notes to Financial Statements duplicates that required on page 108. In fact, to prevent duplication, the instructions on page 108 direct the respondent to reference the schedule in which information required by Page 108 appears, rather than report the same information in both places.

As to Williston's comments, the Commission does not agree that the information required in item 8 is proprietary because an adequate response to the requirement to report the estimated annual effect and nature of any important wage scale changes may be prepared so as to not reveal proprietary information. The Commission also does not agree with Williston that information on the estimated increase or decrease in annual revenues due to important rate changes required by item 11 is misleading. The respondent can and should provide explanations to prevent wrongful interpretations of the data.

Important Changes During the Year—Page 109

The Commission is deleting this continuation page because it is not needed with electronic reporting.

No comments were filed.

Comparative Balance Sheet (Assets and Other Debits)—Page 110

The Commission is modifying column (c) by deleting ''Balance at Beginning of Year'' and inserting ''Balance at End of Current Year (in dollars)'' and is modifying column (d) by deleting ''Balance at End of Year (in dollars)'' and inserting ''Balance at End of Previous Year (in dollars).'' The Commission also is deleting ''Gas Stored Underground Noncurrent (117)'' at Line 12 and replacing it with four new accounts—Gas Stored—Base Gas (117.1), System Balancing Gas (117.2), Gas Stored in Reservoirs and Pipelines—Noncurrent (117.3), and Gas Owed to System Gas (117.4). The Commission further is changing the title on Line 16 from ''Other'' to ''Other Property and Investments.''

The comments addressing the proposed storage accounting are discussed above.

Comparative Balance Sheet (Assets and Other Debits) (Continued)—Page 111

The Commission is modifying column (c) by deleting ''Balance at Beginning of Year'' and inserting ''Balance at End of Current Year (in dollars)'' and is modifying column (d) by deleting ''Balance at End of Year'' and inserting ''Balance at End of Previous Year (in dollars).''

No comments were filed.

Comparative Balance Sheet (Liabilities and Other Credits)—Page 112

The Commission is modifying column (c) by deleting ''Balance at Beginning of Year'' and inserting ''Balance at End of Current Year (in dollars)'' and is Modifying Column (d) by deleting ''Balance at End of Year'' and inserting ''Balance at End of Previous Year (in dollars).'' The Commission also is adding the language ''(Less) Current Portion of Long-Term Debt'' to Line 22.

INGAA supports the above-described revisions.

Comparative Balance Sheet (Liabilities and Other Credits) (Continued)—Page 113

The Commission is modifying column (c) by deleting ''Balance at Beginning of Year'' and inserting ''Balance at End of Current Year (in dollars)'' and modifying column (d) by deleting ''Balance at End of Year'' and inserting ''Balance at End of Previous Year (in dollars).''

INGAA supports the above-described revisions. The Commission is adding the language ''Current Portion of Long-Term Debt'' as line No. 33.

Statement of Income For the Year—Pages 114–116

The Commission is moving instructions 5 and 6 from this schedule to Notes to Financial Statements on page 122.

INGAA would clarify that the proper accounts for lines 9 and 10 are 407.1 and 407.2 to be consistent with the Uniform System of Accounts.

The Commission agrees and is changing the account numbers on lines 9 and 10 to 407.1 and 407.2 respectively.

The Commission is deleting instruction 7, which permits the attaching at page 122 of any notes appearing in the report to stockholders that are applicable to this Statement of Income, and is moving instruction 8

from this schedule to Notes to Financial Statements on page 122.

INGAA supports the above-described revisions.

The Commission is adding the words ''(in dollars)'' to column headings (c) through (j).

Statement of Retained Earnings For the Year—Page 118

The Commission is modifying column (c) by deleting ''Amount'' and inserting ''Current Year Amount (in dollars)'' and by adding column (d) ''Previous Year Amount (in dollars).'' The Commission also is deleting instruction 8, which requires the attaching at page 122 of applicable notes in the annual report to stockholders.

INGAA supports the above-described revisions. Consistent with discussion of the revisions to page 118 of Form No. 2–A, the Commission will revise line 36 to read ''Balance—End of Year (Total of lines 1, 9, 15, 16, 22, 28, 34, and 35)''.

Statement of Retained Earnings For the Year (Continued)—Page 119

The Commission is modifying column (c) by deleting ''Amount'' and inserting ''Current Year Amount (in dollars)'' and is adding column (d) ''Previous Year Amount (in dollars).''

INGAA supports the above-described revisions.

Statement of Cash Flows—Pages 120 and 121

The Commission is deleting the first sentence of instruction 1, which requires the attachment at page 122 of applicable notes in the annual report to stockholders.

The Commission is modifying column (b) by deleting ''Amounts'' and inserting ''Current Year Amount'' and by adding Column (c) ''Previous Year Amount.''

INGAA supports the above-described revisions.

Notes to Financial Statements—Page 122

The Commission is changing instruction 1 to require at least the same level of detail for disclosures that would be given in shareholder annual reports and is adding new instructions to provide significant details on: the respondent's pension and other benefit plans and disclosure of financial changes either to the respondent or the respondent's consolidated group that will directly affect the respondent's gas pipeline operations. The Commission also is deleting instructions 3 (''For Account 116, Utility Plant Adjustments'') and 6 (permitting the attaching of notes to financial statements in the annual report to stockholders). In addition, as stated above, the Commission is moving three instructions from pages 114 and 115 to page 122. As discussed below, the Commission is not adopting proposed instructions 4 (income taxes) or 7 (differences between financial statements to stockholders/public and Form No. 2).

INGAA recommends changes to improve the focus of information to be provided on this page. It would allow a reference to SEC 10–K reporting or reliance on GAAP for information on pensions, benefits, deferred taxes, etc. It suggests removing the requirement in Instruction 1 that notes be grouped under subheadings for each financial statement because most notes apply to more than one financial statement. It submits that this requirement could increase the number of notes and the duplication of information. It adds that GAAP does not require grouping of notes by financial statement and that this requirement creates a difference between GAAP and FERC reporting that is not needed or useful to the reader. It would delete instructions 2, 4, and 5. It would revise Instruction 3 to exclude the disclosure of cash contributions to pension, PBOP and other post-employment benefit plans since, it asserts, GAAP disclosures for those plans are adequate for Form 2. It would revise Instruction 7 because this should not be a regulatory requirement, except in limited instances where differences are not consistent with the Uniform System of Accounts or FERC Orders. It further states that the general purpose financial statements issued to shareholders or the public generally refer to the respondent's financial statements, and not those of the respondent's parent or ultimate parent. It states that instruction 11 requires explanations of changes in accounting methods made during the year which had an effect on net income. It maintains that instruction 11 should be revised to limit the requirement to significant changes.

AGD would include any differences in accounting classifications between Form No. 2 and the latest NGA section 4 rate filing with more than a $3–4 million impact.

Columbia maintains it would be an undue burden to list pursuant to proposed instruction 7 the differences in the way transactions are presented in the stockholders annual report versus the Form No. 2. It argues that the proposed requirement to disclose financial changes that will directly affect pipeline operations is unnecessarily duplicative of information that is reported on page 108.

National Fuel submits that disclosures should be in accordance with GAAP as reflected in general purpose financial statements to the public or to shareholders, so that pipelines would not be forced to rewrite their Notes for the version of their financial statements incorporated in the Form No. 2. It also suggests that, because Form No. 2 will include a complete set of Notes to Financial Statements, any accompanying notes filed on an interim basis in other contexts (*e.g.,* a new rate case) be deemed sufficient if they make the financial statements not misleading. It states that it assumes the reader has read the most recent Form No. 2.

The Commission concurs with the commenters who question the regulatory applicability and the burden that will be caused by proposed instruction 7 and is deleting it. The Commission concurs with the comment that GAAP is sufficient for information on income taxes and is deleting proposed instruction 4. The Commission also agrees that instruction 11 should only require information on significant changes in accounting methods made during the year that had an effect on net income and is revising the wording in that instruction to read: ''* * * significant changes in accounting methods * * *''

The Commission does not agree that a reference to the SEC 10–K is sufficient and therefore will not allow referencing the SEC 10–K. As explained above, the Commission has found that such references in the past were inadequate for regulatory purposes.

The Commission does not agree that instruction 1 should be revised as proposed by National Fuel because no rewriting is needed of the disclosures in general purpose financial statements. Rather, respondent merely will supplement those disclosures with information needed for Commission regulatory purposes.

The Commission also does not agree with the comment that the requirement in instruction 1 to group notes by financial statement subheadings will result in duplication. The instruction is flexible in allowing separate disclosure of items that are applicable to more than one financial statement.

In answer to the commenter who wants to exclude from proposed instruction 3 the cash contributions to pension, PBOP and other post-employment benefit plans, the reporting of cash contributions is necessary to aid the Commission staff in their determination of the level of these costs includible in a pipeline's rates.

Likewise, the retention of instructions 2 and 5 is essential in the Commission's ongoing analysis of the effect on rates of certain actions taken by a company. The Commission will not adopt AGD's recommendation to require reporting of significant differences between Form 2 accounting classifications and those used for rate filings because the accounting required for Form No. 2 must be consistent with that used for ratemaking purposes. Last, the Commission rejects National Fuel's suggestion that Form No. 2 notes may be filed in other contexts, because the Commission does not believe that filing updated notes will be unduly burdensome.

Notes to Financial Statement (Continued)—Page 123

The Commission is deleting this continuation page because it is not needed with electronic reporting.

No comments were received.

Summary of Utility Plant and Accumulated Provisions for Depreciation, Amortization and Depletion (Continued)—Page 201

The Commission is deleting columns (f) and (g) both entitled ''other (specify)'' as unneeded because electronic reporting permits additional columns to be added as necessary.

INGAA supports the above-described revision.[55]

Gas Plant In Service (Accounts 101, 102, 103, and 106)—Pages 204–209

The Commission proposed no changes to these pages. However, consistent with the Commission discussion below of revisions to these pages of Form No. 2–A, the Commission will modify these Form No. 2 pages to indicate which lines are used for totals.

Gas Property and Capacity Leased From Others—Page 212

The Commission is adding a new schedule to provide information about gas property and capacity leased from others. The Commission is requiring only the reporting of property leases in which the average annual lease payment under the initial term of the lease exceeds $500,000.

INGAA responds that information requested by the NOPR is at a level of detail that is not needed. It asks for clarification that reporting is for gas property and capacity leased from others pertaining to gas operations. INGAA and Panhandle comment that pipelines should disclose only names of lessor, description of leases, and lease payments. Panhandle would raise the threshold to $1,000,000.

The Commission clarifies that reporting is for gas property and capacity leased from others pertaining to gas operations and agrees that pipelines need to disclose only the name of the lessor, description of lease, and lease payments. The instructions will so indicate. The Commission will not raise the threshold to $1,000,000 because that level is too high for the reporting of meaningful information.

Gas Property and Capacity Leased To Others—Page 213

The Commission is revising the schedule on page 213 entitled ''Gas Plant Leased to Others (Account 104)'' by changing the schedule and instructions about gas property and capacity leased to others. The changes are necessary to provide information that would allow the Commission to determine whether ratepayers are paying for facilities not used in the respondent's utility operations. The Commission is requiring only the reporting of property leases in which the average annual lease income over the initial term of the lease exceeds $500,000.

INGAA asks for clarification that reporting is for gas property and capacity leased to others pertaining to gas operations. It comments that columns (c) and (e) are missing on the form.

The Commission so clarifies and has corrected the columns.

Gas Plant Held For Future Use (Account 105)—Page 214

The Commission is raising the reporting threshold of $250,000 to $1,000,000 as suggested by INGAA, rather than to $500,000 as proposed in the NOPR. The Commission is also deleting the language in Line No. 1 which refers to pages 500–01, which are proposed to be deleted.

Production Properties Held For Future Use (Account No. 105.1)—Page 215

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports deletion of this schedule.

Construction Work In Progress—Gas (Account 107)—Page 216

The Commission is raising the threshold from $500,000 to $1,000,000 as suggested by INGAA and Panhandle. The NOPR had proposed no change to the $500,000 threshold.

Construction Overheads—Gas—Page 217

The Commission, as suggested by INGAA, is deleting this page because page 218 reports adequate information.

Gas Stored (Accounts 117.1, 117.2, 117.3, 117.4, 164.1, 164.2, and 164.3)—Page 220

The Commission is deleting Account 117 and replacing it with four new accounts as discussed above. The Commission also is changing Mcf to Dth in instruction 1 and lines 6 and 7, is redesignating the column letters, eliminating instructions 2 through 5 as no longer necessary, and adding a new instruction on encroachments on base gas, system balancing gas, and gas properly recordable in the plant accounts.

INGAA suggests that additional changes may be required on this page to accommodate the actual use of storage inventories. NGSA states this page should match page 513 and page 513 should have reporting by account.

The Commission believes this schedule is adequate as proposed and will make no further changes to it. The Commission does not agree with the comment that this page should match page 513; the two schedules serve different purposes. Page 220 is a supplement to the Balance Sheet and page 513 is meant only for operational data.

Nonutility Property (Account No. 121) and Accumulated Provision For Depreciation and Amortization of Nonutility Property (Account 122)—Page 221

The Commission is deleting these schedules because they are not needed for Commission regulatory purposes.

INGAA supports this deletion. The APGA opposes deletion because this page has vestigial value about changes is a pipeline's business.

The Commission does not believe that vestigial value supports the burden of reporting this information.

Investments (Accounts 123, 124, 136)—Pages 222–225 and Investments in Subsidiary Companies (Account 123.1)—Pages 224 and 225

The Commission did not propose any changes to these pages.

INGAA and Panhandle would delete these pages. INGAA states the information has no regulatory purpose. Panhandle states that material matters will be described in financial footnotes.

The Commission will retain these pages because the required data provides the Commission with relevant information that is useful in

[55] In this schedule's pages, the Commission is also deleting duplicative columns of account numbers.

determining the respondent's affiliations and in analyzing financing arrangements that may affect regulated pipeline operations. In addition, the Commission, based on past filings, concludes that the data will not be presented in the notes to the financial statements in the detail needed for Commission regulatory purposes.

Gas Prepayments Under Purchase Agreements—Pages 226 and 227

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports this deletion. But the APGA opposes it because this page has vestigial value about changes in a pipeline's business.

The Commission does not believe that vestigial value supports the burden of reporting this information.

Advances For Gas Prior to Initial Deliveries or Commission Certification (Accounts 124, 166, and 167)—Page 229

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports deleting this schedule.

Prepayments (Account 165)—Page 230

The Commission is eliminating the instruction requiring the reporting of all payments for undelivered gas and the completion of pages 226 to 227, along with Line 5, Gas Prepayments (pages 226–227). Pages 226 and 227 are also eliminated.

INGAA supports the revisions in order to make this page consistent with pages 226 and 227. The Commission is also adding a column entitled ''Balance at Beginning of year.'' [56]

Preliminary Survey and Investigation Charges (Account 183)—Page 231

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports deleting this schedule.

Other Regulatory Assets (Account 182.3)—Page 232

The Commission is raising the reporting threshold for minor items from $50,000 to $250,000 rather than to $100,000 as proposed in the NOPR. The Commission is adding new instruction 4—''Report separately any 'deferred regulatory Commission expenses' that are also reported on pages 350–351, Regulatory Commission Expenses''.

[56] This column is also being added to the schedules, ''Extraordinary Property Losses (Account 182.1)'' and ''Unrecovered Plant and Regulating Study Costs (Account 182.2).''

INGAA agrees with the proposed revisions and, along with Columbia, suggests the addition of a beginning balance field. Transco would raise the threshold to $500,000 and Panhandle would raise it to $1,000,000.

The Commission will add a beginning balance field and, as stated, will raise the threshold to $250,000, consistent with the threshold we are adopting for other asset and liability schedules. This threshold will mitigate the reporting burden on pipelines while providing the Commission with useful information for small as well as large pipelines.

Miscellaneous Deferred Debits (Account 186)—Page 233

The Commission is raising the reporting threshold for minor items from $100,000 to $250,000 and is deleting Line No. 48 ''Deferred Regulatory Commission Expenses (*see* pages 350–351).

INGAA and Columbia support this revision, but would also delete ''Account charged'' col. (d). Transco would raise the threshold to $500,000. Panhandle would raise it to $1,000,000.

The Commission believes that column (d) should be retained as it provides useful information and that the $250,000 threshold is the appropriate threshold level for this information.

Accumulated Deferred Income Taxes (Account 190)—Pages 234–235

The Commission did not propose any changes to these pages.

INGAA would delete the ''Notes'' section and follow the pages 274 and 275 format, which it says is more consistent and better organized.

The Commission will make the format of pages 234–235 consistent with that of pages 274–275. However, the Commission will retain the ''Notes'' section.

Capital Stock (Accounts 201 and 204)—Pages 250 and 251

The Commission is deleting part of instruction 1, which permits referencing the SEC 10–K Report Form filing. The Commission is making this deletion because many respondents are included in consolidated reports that do not provide the required information about the respondent. The Commission discusses below the arguments to delete this schedule.

Capital Stock subscribed, Capital Stock Liability For Conversion, Premium on Capital Stock, and Installments Received on Capital Stock (Accounts 202 and 205, 203 and 206, 207, 217)—Page 252

The Commission below discusses the arguments to delete this schedule.

Other Paid-in Capital (Accounts 208–211, inc.)—Page 253

The Commission discusses below the arguments to delete this schedule.

Discount on Capital Stock (Account 213)—Page 254

The Commission discusses below the arguments to delete this schedule.

Capital Stock Expense (Account 214)—Page 254

The Commission discusses below the arguments to delete this schedule.

Securities Issued or Assumed and Securities Refunded or Retired During the year 1992—Page 255

The Commission discusses below the arguments to delete this schedule.

Long-Term Debt (Accounts 221, 222, 223, and 224)—Page 256

The Commission is deleting part of instruction 1, which permits referencing the SEC 10–K report Form filing for the reason stated above.

The Commission discusses below the arguments to delete this schedule.

Unamortized Debt Expense, Premium and Discount on Long-term Debt (Accounts 181, 225, and 226)—Pages 258 and 259

The Commission discusses below the arguments to delete this schedule.

Unamortized Loss and Gain on Reacquired Debt (Accounts 189, 257)—Page 260

INGAA and Panhandle maintain that the above pages (250–260) should be deleted because material matters will be in the Footnotes to the Financial Statements or there is no regulatory purpose for the information.

The Commission disagrees with INGAA and Panhandle. The information required to be reported on pages 250–260 is not detailed in the footnotes to the Financial Statements. This information allows the Commission and the public to determine the cost and changes in the levels of the respondent's debt, preferred and common stock. Such information is directly relevant to the pipeline's cost of providing service. Therefore, the Commission will not delete these pages.

Reconciliation of Report Net Income With Taxable Income for Federal Income Taxes—Page 261

The Commission did not propose any changes to this page.

INGAA would delete this schedule because there is no regulatory purpose for this information.

The Commission disagrees. The information on this page is useful in analyzing the pipeline's Federal income tax component of its cost of service, including its deferred taxes. Therefore, this page will be retained.

Taxes Accrued, Prepaid and Charged During Year—Pages 262 and 263

The Commission proposed no change to this schedule.

INGAA suggests the grouping of minor items under $250,000 and the reporting by type rather then by state and year.

Panhandle would revise the instructions to report taxes prepaid and charged by type only and eliminate the excessive detail of reporting by type of tax, by state, and by year.

The Commission does not agree that reporting by type of tax, by state and by year is excessive detail. Rather, it is essential to the Commission in determining the yearly effects of federal and local taxes on the costs of pipeline operations. To only report the type of tax without any breakdown by year or local jurisdiction would render the information practically useless for analysis or analytical purposes. The Commission will permit the grouping of items under $250,000.

Investment Tax Credits Generated and Utilized—Pages 264 and 265.

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports this deletion. But the APGA would retain this schedule because the information has vestigial value about changes in a pipeline's business. The Commission does not believe that vestigial value supports the burden of reporting this information.

Accumulated Deferred Investment Tax Credits (Account 253)—Pages 266 and 267

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports deleting this schedule. But the APGA would retain this schedule because the information has vestigial value about changes in a pipeline's business. The Commission does not believe that vestigial value supports the burden of reporting this information.

Miscellaneous Current and Accrued Liabilities (Account 242)—Page 268

The Commission is raising the reporting threshold for minor items from $100,000 to $250,000.

INGAA supports this revision. Transco, however, would raise the threshold to $500,000. The Commission believes that $250,000 is the appropriate threshold level for this information.

Other Deferred Credits (Account 253)—Page 269

The Commission is raising the reporting threshold for minor items from $100,000 to $250,000 and is deleting instruction 4 as not needed for Commission regulatory purposes in that it refers to undelivered gas obligations to customers under take-or-pay clauses in sales agreements.

INGAA supports above-described revisions and would delete ''Contra account,'' col. (c), as would Columbia. Panhandle would raise the threshold to $1,000,000. Transco would raise it to $500,000.

The Commission will not delete column (d) because it provides useful information and the Commission believes that $250,000 is the appropriate threshold level for this information.

Undelivered Gas Obligations Under Sales Agreements—Pages 270 and 271

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports deleting this schedule. But the APGA would retain it because it has vestigial value about changes in a pipeline's business. The Commission does not believe that vestigial value supports the burden of reporting this information.

Accumulated Deferred Income Taxes—Accelerated Amortization Property (Account 281)—Pages 272 and 273

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports deleting this schedule. But the APGA would retain it because it has vestigial value about changes in a pipeline's business. The Commission does not believe that vestigial value supports the burden of reporting this information.

Accumulated Deferred Income Taxes—Other Property (Account 283)—Pages 276 and 277

The Commission proposed no change to this schedule.

INGAA would make the format consistent with pages 274 and 275. In the Form No. 2 appendix in the final rule, the two schedules will be consistent.

Other Regulatory Liabilities (Account 254)—Page 278

The Commission is raising the reporting threshold for minor items from $50,000 to $250,000 as suggested INGAA, rather than to $100,000 as proposed in the NOPR. The Commission is correcting a typographical error and, as suggested by INGAA and Columbia, is adding a beginning balance field.

INGAA would delete ''Contra account'' col. (b). Panhandle would raise the threshold to $1,000,000. Transco would raise it to $500,000. The Commission will not delete column (b) ((now (c)) because it provides useful information needed for regulatory purposes. In addition, the Commission believes the $250,000 threshold is the appropriate threshold for this information.

Gas Operating Revenues (Account 400)—Pages 300 and 301

The Commission is adopting substantial and significant changes to this schedule. The changes are: (1) The elimination of instruction 1's reference to manufactured gas revenues; (2) the deletion of instruction 2 defining natural gas; (3) the deletion of instruction 3 and present columns (f) and (g) concerning average number of natural gas customers per month; (4) the deletion of instruction 4 with respect to Mcf and therms; (5) the revision of instruction 5 to eliminate the reference to columns (c), (e), and (g); (6) the deletion of instruction 6 concerning commercial and industrial sales; (7) the revision of instruction 7 to read, on page 108, include information on major changes during year, new service, and important rate increases or decreases;'' (8) the addition of new instruction 2 to provide that revenues for transition costs include transition costs from upstream pipelines; [57] (9) the addition of new instruction 3 to provide that other revenues in columns (f) and (g) include reservation charges received by the pipeline plus usage charges less revenues reflected in columns (b) through (e); [58] (10) the addition of a new instruction 6 with respect to reporting the revenue of bundled transportation and storage service as transportation service revenue; (11) the revising of operating revenues in columns (b) and (c) to revenues for transition costs and take-or-pay costs, (12) the deletion of lines 2–12 and 28–32, which provide for

[57] For example, Order No. 636 transition costs.

[58] The respondent must include in columns (f) and (g) revenues for Accounts 480–495.

the reporting of sales revenues; (13) the addition of lines to show separately gas sales revenues,[59] and transportation revenues associated with gathering, transmission, and distribution facilities, and revenues from storage services; and (14) added columns for GRI and ACA revenues, other revenues, and total operating revenues and dekatherms of natural gas, each for the current reporting year and the previous year.[60]

The Commission's main reason for adopting these changes is to recognize that pipelines now receive most of their revenues from transportation and not sales. Hence, the breakout of information by types of sales is not needed. The Commission is breaking out Account 489 into four new accounts (Accounts 489.1—489.5) as discussed above.

INGAA maintains that gathering quantities should not be included in total throughput columns (l) and (m), because they may also be reported as transmission. It seeks clarification whether dekatherms are to be reported in millions. It seeks clarification that ''other'' revenues includes only the pipeline's transition or take or pay costs and not those of upstream pipelines. It seeks clarification that GSR costs included in interruptible rates need not be reported separately. Commission response:

The Commission has not provided for totals in the dekatherm columns to avoid double counting. Dekatherms are to be reported in units rather than in millions. As stated above, upstream pipeline transition and take-or-pay costs are to be included in revenues in columns (b) and (c). Last the allocated portion of GSR costs for interruptible rates should be included in columns (b) and (c) and not separately reported.

AGD maintains that the Commission should require pipelines to show revenues by month to avoid standard data requests in rate cases for that information. The Commission concludes that such reporting would be unduly burdensome because it is too detailed for reporting purposes.

Revenues from Transportation of Gas of Others Through Gathering Facilities (Account 489.1) and Dth Gathered—Pages 302 and 303

The Commission is replacing the schedule ''Distribution Type Sales by States'' with several new schedules. The current schedule, which reflects residential, commercial, and industrial revenues and volumes by state is no longer needed for Commission regulatory purposes because with unbundling those sales are now unbundled and occur in the production area rather than in the market area.

In response to the comments,[61] the Commission is combining into a single schedule the NOPR's proposed schedules on pages 302–304 and 312(b) and 313(b) to eliminate redundant reporting. However, the Commission is not, as suggested by some commenters,[62] combining these proposed schedules and the schedule on pages 300–301 into a single schedule. The Commission believes it convenient for gathering, transportation, and storage data to be reported on their own schedules.

The Commission does not agree with Panhandle and ANR that these should only be one schedule with only summary totals.[63] Such limited information is not adequate for regulatory purposes.

In the new Revenues from Transportation of Gas of Others Through Gathering Facilities Schedule, the pipeline will have to report its revenues by zone of receipt and by rate schedule.[64] The pipeline would have to report for both the current and previous year its revenues for transition costs and take-or-pay costs, revenues for GRI and ACA, other revenues,[65] and total operating revenues, and its Dth of gas delivered.[66] The Commission believes that this schedule will provide the information needed with respect to gathering to obtain a good description of the pipeline's activities in the unbundled environment.

The Commission has deviated from the NOPR by requiring reporting by zone of receipt and by rate schedule rather than by state of delivery, by customer, by rate as in the NOPR's proposed gathering schedules. The Commission believes that reporting by zone of receipt and by rate schedule will provide the appropriate information needed for regulatory purposes without undue burden on the pipeline industry. The Commission does not believe that such customer information is necessary outside of the context of a rate proceeding. The Commission believes that it has thus addressed INGAA's concernabout providing customer data and its concern that pipelines may not know the exact delivery point from a multi-point contract, and will have to make an arbitrary allocation to a state.

The Commission will discuss further here only those comments specific to gathering. Comments applicable to gathering and also to other services will be addressed below in the discussion of the transportation schedule.

Columbia maintains that gathering revenues should be reported by state of receipt into the system. As stated above, the Commission is requiring reporting by zone of receipt into the pipeline's system.

Revenues from Transportation of Gas of Others Through Transmission Facilities (Account 489.2)—Pages 304 and 305

In the new Revenues from Transportation of Gas of Others Through Transmission Facilities and Dth Transported Schedule, the pipeline would have to report its revenues by zone of delivery and by rate schedule. The pipeline would have to report for both the current and previous year its revenues for transition costs, and take-or-pay costs, revenues for GRI and ACA, other revenues,[67] and total operating revenues, and its Dth of gas delivered. The Commission believes that this reporting reflects the current unbundled environment's emphasis on transportation for others.

The Commission has deviated from the NOPR by requiring reporting by zone of delivery and by rate schedule rather than by state of delivery by customer and by rate schedule as in the NOPR's proposed transportation schedules. The Commission believes that reporting by zone of delivery and by rate schedule will provide the appropriate information needed for regulatory purposes without undue burden on the pipeline industry. The Commission does not believe that such customer information is necessary outside of the context of a rate proceeding. The Commission believes that it has thus addressed INGAA's concern about providing customer data, including its concern about the difficulty of complying with the NOPR's customer-data requirement for some pipelines. The Commission also observes, as did INGAA, that Form EIA–176 collects state information which, in any event, is not of use to the

[59] The proposed new sales line includes Accounts 480–84 which are now reported on lines 2–12.

[60] Penalty revenues are to be reported on page 308, Other Gas Revenues.

[61] E.g., Columbia.

[62] E.g., INGAA.

[63] CNG maintains that dekatherm does not equal throughput. Dekatherms is an appropriate and recognized way to measure deliveries even though it does not measure volumes. Most pipelines' rates are based on dekatherms.

[64] If a pipeline has no rate schedule, it should report by rate.

[65] Other revenues include reservation charges received by the pipelines plus usage charges, less revenues reflected in columns (b) through (e).

[66] As suggested by INGAA, the Commission has eliminated duplicative column (a).

[67] Other revenues include reservation charges received by the pipeline plus usage charges, less revenues reflected in columns (b) through (e).

Commission. The Commission further observes that both the NGSA and AGD support reporting by zones.[68]

INGAA also submits that transportation quantities appear to require gathering quantities to be included in transportation totals and since gathering system quantities will already be included in transmission deliveries, gathering should not be added to other quantities. CNG also maintains that gathering is included in transportation. As clarified with respect to pages 300 and 301, these quantities are not totalled to avoid double counting.

The Commission has not expanded the coverage of the schedules as proposed by some commenters. NGSA maintains that reporting should be by customer type, with MDQ levels, demand and commodity volumes, discount information, and base and surcharge revenues. AGD submits that revenues and volumes reporting should be reported by rate schedule by zone of delivery (not state), and should include with short-term firm transportation. APGA enthusiastically supports pages 312 and 313, especially transportation throughput as solely needed. It would add details on contracts of less than one year as well as contracts of one year and longer (revenues and volumes).

DOE maintains that the Commission should require the pipelines to provide a menu of service categories;[69] an additional field to denote type of customer, along with standardized customer numbers; mileage information; and totals by state and by type of service.

The Commission believes the above suggestions would be unduly burdensome in light of the limited use of the information for regulatory purposes.

Revenues from Storing of Gas of Others (Account 489.4)—Pages 306 and 307

In the new Revenues from Storing of Gas of Others schedule, the pipeline would have to report its revenues and Dth of gas withdrawn from storage by rate schedule. The pipeline would have to report for both the current and previous year its revenues from transition costs and take-or-pay costs, revenues from GRI and ACA, other revenues,[70] and total operating revenues, and the Dth withdrawn from storage.

The Commission believes that this schedule will provide the information needed with respect to unbundled storage to obtain a good description of the pipeline's activities in the unbundled environment.

The Commission has deviated from the NOPR by requiring reporting by rate schedule rather than by rate schedule by customer as on the NOPR's proposed schedules. The Commission believes that reporting by rate schedule will provide the appropriate information needed for regulatory purposes without undue burden. INGAA contends that storage revenues are not tied to withdrawals and Columbia asks why storage injections as well as storage withdrawals are not included. The Commission is not tying the reporting of storage revenues by withdrawals. Rather, all revenues received for storage during the reporting year must be reported. The Commission has required Dth reporting by withdrawals because withdrawal completes the storage cycle and such information should be adequate for regulatory purposes. The Commission rejects Columbia's contention that small customers (less than 1 million Dth) should be combinedbecause this would limit the reporting of meaningful information.

Residential and Commercial Space Heating Customers and Interruptible, Off-Peak, and Firm Sales to Distribution System Industrial Customers—Page 305

The Commission is deleting this page because it is not needed for Commission regulatory purposes.

INGAA supports deleting this page. But the APGA would retain it because it has vestigial value about changes in a pipeline's business. The Commission does not believe that vestigial value supports the burden of reporting this information.

Other Gas Revenues (Account 495)—Page 308

The Commission is adopting new schedule ''Other Gas Revenues (Account 495)'' for the reporting of a variety of other gas revenues, such as revenues from dehydration and gains on settlements of imbalances. The Commission is not requiring the reporting of revenues from associated companies as proposed in the NOPR. The Commission is requiring the reporting of penalty revenues on the schedule and is requiring the separate reporting of revenues from cash-out penalties.

The Commission has adopted a threshold of $250,000 for each transaction. This is lieu of the $1,000,000 threshold suggested by Columbia, which will exclude meaningful data. As suggested by INGAA and by Columbia, the pipelines need not report the customer names with respect to the transactions.

NGSA maintains that base and surcharge revenues should be separately stated. The Commission sees no need for base and surcharge revenues for these transactions to be separately reported, and so will not adopt NGSA's suggestion.

Sales of Natural Gas—Pages 306 Through 309

The Commission is deleting this schedule, entitled ''Field and Main Line Industrial Sales of Natural Gas,'' and is not adopting the sales of natural gas schedule proposed in the NOPR.

The Commission is so acting because the proposed schedule would have released proprietary information (customer names as maintained by INGAA).

Sales for Resale—Natural Gas (Account 483)—Pages 310 and 311

The Commission is deleting this schedule because the level of detail reported is not needed for Commission regulatory purposes.

INGAA supports the deletion of these pages.

Sales of Products Extracted From Natural Gas (Account 490)—Page 315

The Commission is deleting this schedule because the level of detail reported is not needed for Commission regulatory purposes.

Revenues From Natural Gas Processed by Others (Account 491)—Page 315

The Commission is deleting this page, as suggested by INGAA, because the level of detail reported is not needed for Commission regulatory purposes.

Gas Operations and Maintenance Expenses—Pages 317–325

No changes were proposed to this schedule. However, the Commission is adding instruction 2 that requires respondents provide in footnotes the source of the index used to determine the price of gas supplied by shippers as reflected on line 75 on page 319. In addition, the Commission is inserting on line 66 the heading ''D—Other Gas Supply Expense.'' Further, consistent with our discussion of the revision of page 322 of Form No. 2–A, the Commission will revise line 145 to read ''Total Maintenance (Total of lines 136 through 144)''.

Last, the Commission, as suggested by Panhandle, is deleting the section

[68] As suggested by Transco, the Commission has deleted the requirement that revenues be reported in millions.

[69] E.g., short-term firm transportation and released firm transportation.

[70] Other revenues include reservation charges deliverability charges, injection and withdrawal charges, less revenues reflected in columns (b) through (e).

entitled ''Number of Gas Department Employees'', because it is irrelevant to the reporting of the distribution of salaries and wages.

Exploration and Development Expenses (Accounts 795, 796, 798) (Except Abandoned Leases, Account 797)—Page 326

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports deletion of this schedule.

Abandoned Leases (Account 797)—Page 326

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports deletion of this schedule.

Gas Purchases (Accounts 800, 800.1, 803, 804, 804.1 805, 805.1)—Page 327

The Commission is deleting this schedule and is not adopting the NOPR's proposed Gas Receipts schedule. Those schedules are not needed for Commission regulatory purposes and needed information is reported elsewhere in Form No. 2 (pages 317 and 520 and 521).

Exchange and Imbalance Transactions—Page 328

The Commission is revising this schedule differently from the revision proposed in the NOPR. This schedule (on one page only) will require details concerning gas quantities and related dollar amounts of net annual imbalances by zone and rate schedule.

Unlike the NOPR proposal, the Commission is not requiring reporting by customer or transaction or by point of receipt or delivery. This will ease the burden on the pipelines and the schedule will still garner useful data. However, the Commission is retaining the threshold of 100,000 Dth for the grouping of minor transactions, rather than increasing the threshold to 1,000,000 Dth as proposed by INGAA, because the 100,000 Dth level provides more meaningful information.

Gas Used In Utility Operations—Page 331

The Commission is striking ''Credit (Accounts 810, 811, 812)'' from the title, is replacing Mcf with Dth, and deleting part of Instruction 1 and all of instructions 2, 3 and 5 concerning the definition of natural gas and Mcf reporting.

INGAA supports the above-described revisions.

Transmission and Compression of Gas By Others (Account 858)—Pages 332 and 333

The Commission is replacing Mcf with Dth, deleting current columns (b)–(f), and requiring the reporting of Dth of gas delivered in new column (b). This will eliminate the reporting of the distance gas is transported and revenue information. The continuation page 333 is deleted.

INGAA supports the above-describe revisions.

Other Gas Supply Expenses (Account 813)—Page 334

The Commission is requiring that respondents report maintenance expenses, the revaluation of monthly encroachments recorded in Accounts 117.4, losses on settlements of imbalances and gas losses not associated with storage, separately. In addition, individual items of $250,000 or more are to be listed separately. The NOPR proposed a threshold of $25,000, but, as INGAA maintains, this would lead to the unnecessary reporting of detail.

Miscellaneous General Expenses (Account 930.2) (Gas)—Page 335

The Commission is dividing Line No. 2 (Experimental and general research expenses) into (a) Gas Research Institute (GRI) expenses and (b) other expenses. In addition, the Commission is raising the thresholds from $5,000 to $250,000, rather than the $25,000 threshold proposed by the NOPR.

INGAA supports the above-described changes, but would delete the requirement that the number of items grouped be shown because this instruction adds no value to the report.

The Commission disagrees with the comment that reporting the number of items grouped adds no value to the report. This number puts the grouped item into perspective and facilitates analysis. Therefore, the instruction to report the number of items grouped will remain as part of line 4.

Depreciation, Depletion, and Amortization of Gas Plant (Accounts 403, 404.1, 404.2, 404.3, 405) (Except Amortization of Acquisition Adjustment)—Pages 336 and 337

The Commission is deleting instruction 2 to report information called for in Section B every fifth year after 1974 and is inserting the words '' and amortizable'' in the first line of new instruction 2 after the word ''depreciable.''

INGAA supports the above-described revisions. It states that instruction No. 2 should be corrected by inserting ''Section B.'' The Commission has made that correction.

Depreciation, Depletion, and Amortization of Gas Plant (Continued)—Page 338

The Commission is revising the headings to column (b) to read ''Plant Base (thousands)'' and column (c) to read ''Applied Depreciation or Amortization Rates (Percent).''

INGAA supports this revision.

Income From Utility Plant Leased to Others (Account 412 and 413)—Page 339

The Commission is deleting this schedule because the information will be reported on page 213.

INGAA supports the deletion of this schedule.

Particulars Concerning Certain Income Reductions and Interest Charges Accounts—Page 340

The Commission is raising the threshold for the grouping of items from $10,000 to $250,000, as opposed to the $25,000 threshold proposed by the NOPR.

Regulatory Commission Expenses (Account 428)—Pages 350 and 351

The Commission is changing the account number reference in the headings to columns (e), (i) and (l) from 186 to 182.3, and replacing instruction 4 on page 351, which references Account No. 186, with ''4. Identify separately all annual charge adjustments (ACA).'' In addition, the Commission is raising the threshold for minor items from $25,000 to $250,000, as opposed to the $50,000 threshold proposed by the NOPR.

Columbia would delete columns (e) through (l) because they contain redundant information that offer little benefit or useful information.

The Commission disagrees with Columbia. The information reported in these columns enables the Commission staff to obtain a more complete picture of the amounts and types of regulatory expenses that have been incurred during the year, as well as information on the amounts amortized from prior years.

Research, Development, and Demonstration Activities—Pages 352 and 353

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports the deletion of this schedule.

Distribution of Salaries and Wages—Page 354

The Commission proposed no change to this schedule.

INGAA and Columbia maintain that his schedule should be deleted because the information reported is required only for NGA section (4) rate filings.

The Commission is retaining this schedule because it provides useful information for regulatory purposes, including use in evaluating rate filings under NGA section 4(e).

Charges for Outside Professional and Consultative Services—Page 357

The Commission is raising the threshold from $25,000 to $250,000, as suggested by INGAA and Panhandle, as opposed to the $50,000 threshold proposed by the NOPR, is deleting the requirement for the consultant's address, and is deleting other details about charges and contracts. The Commission is also adding columns (a) ''Description'' and (b) ''Amount (in dollars).''

INGAA would require only the consultant's name and related payment. Columbia would eliminate much of the information as it is in an NGA section 4(e) filing. The Commission believes it relevant for regulatory purposes to obtain the required information. If a respondent does not make such a filing, the Commission would not have this information.

The APGA would retain the $25,000 threshold. The Commission believes the current threshold is too low in today's environment.

Natural Gas Reserves and Land Acreage—Pages 500 and 501

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports the deletion of this schedule.

Changes in Estimated Gas Reserves—Page 503

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports the deletion of this schedule.

Changes in Estimated Hydrocarbon Reserves and Costs, and Net Realizable Value—Pages 504 and 505

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports the deletion of this schedule.

Natural Gas Production and Gathering Statistics—Page 506

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports the deletion of this schedule.

Products Extraction Operations—Natural Gas—Page 507

The Commission is deleting this schedule because, as INGAA observes, this information is similar to deleted pages 500–506.

Compressor Stations—Pages 508 and 509

The Commission is replacing the reporting of number of employees in column (b) with a report of the number of compressor stations and the horsepower of each station and is redesignating the remaining columns. In addition, gas for compressor fuel would be reported by Dth rather than by Mcf. The Commission agrees with INGAA that reporting will be less burdensome and data will be more useful if pipelines report horsepower by compressor station, rather than by unit as proposed by the NOPR.

AGD would require reporting certificated horsepower and available horsepower at the end of the period, if different.

The Commission has not previously required the reporting of available horsepower in Form No. 2. If a pipeline cannot operate at its certificated horsepower, it should file to amend its certificated horsepower to whatever level it has currently available.

Gas and Oil Wells—Page 510

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports the deletion of this schedule.

Field and Storage Lines—Page 511

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports the deletion of this schedule.

Gas Storage Projects—Pages 512 and 513

The Commission is not deleting page 512 or substantially revising page 513 as proposed in the NOPR because the Commission is deleting Form No. 8 with respect to storage. The Commission is retaining the information required by this schedule about storage operations for gas delivered to storage, gas withdrawn from storage with regard to respondent's gas, and gas belonging to others, as well as information about particular operations (page 513).

INGAA supports the above-described revisions. AGD would require reporting by field, not in the aggregate, with a showing of actual withdrawal capacity when full and when top gas is depleted (first and last day of deliveries) and corresponding injection capability at the same points. The Commission believes that by retaining this schedule in most part, the industry will be provided with adequate information. The reporting requirement on this page has always been in the aggregate and not by field or by account and is not a new requirement. AGD's suggestions would require the company to report in such detail that it would be extremely labor-intensive. Therefore, the Commission will not adopt the suggestion.

Transmission Lines—Page 514

DOE suggests standardizing the method for describing or identifying the various transmission lines so that shippers will be able to reconcile information from various sources to arrange more efficiently for transportation service. DOE also suggests that each line should agree with the Form No. 567 map information.

The Commission concludes that DOE's proposals would be unduly burdensome for Form No. 2 reporting in that they serve no regulatory purpose.

Liquefied Petroleum Gas Operations—Pages 516 and 517

The Commission is deleting this schedule because it is not needed for Commission regulatory purposes.

INGAA supports the deletion of this schedule.

Transmission System Peak Deliveries—Page 518

The Commission is replacing Mcf with Dth and is requiring the reporting of deliveries of gas to interstate pipelines, deliveries to others, and of total deliveries. The Commission also is deleting the information with respect to the second and third highest peak day deliveries and the section, Highest Month's System Deliveries. Single peak day and consecutive three-day peak deliveries will be reported by various services and activities. The differentiation between jurisdictional and non-jurisdictional deliveries will be eliminated as no longer pertinent with unbundling. The Commission is adding lines with respect to no-notice transportation and storage services.

INGAA maintains that this amount of detail on peak day deliveries proposed by the NOPR is not justified. It submits that pipelines should report only single

peak and consecutive 3-day peak for total system deliveries. The Commission has reduced the reporting to firm, interruptible, and other to reduce the burden and retain adequate information for regulatory purposes.

DOE proposes that short-term firm transportation and released firm transportation be reported because they merit monitoring as important alternatives to interruptible service.

The Commission does not currently require this information to be reported in Form No. 2, and to do so would unduly increase the reporting burden on pipelines. In addition, the deliveries on peak days may not be representative of released and short-term transportation service on a pipeline.

Auxiliary Peaking Facilities—Page 519

The Commission is replacing Mcf with Dth.

INGAA supports this revision.

Gas Account-Natural Gas—Page 520

The Commission is revising this schedule differently from the schedule proposed in the NOPR. The salient changes are the reporting of gas purchases and gas sales on single lines and the reporting of gas received and delivered according to the revisions to the Uniform System of Accounts adopted in this rule (*e.g.,* Accounts 489.1–489.4). The revised schedule no longer requires the reporting of the information required by NOPR lines 7–13, as suggested by INGAA and Columbia.

The Commission also is revising instruction 1 to exclude the reference to consideration of pressure bases in measuring Mcf of natural gas and is replacing Mcf with Dth in instruction 3 and column (c) on pages 520 and 521.

INGAA recommends the inclusion of definitions for exchange gas received and delivered, and clarification that gathering sales and purchased volumes are not to be added to the totals. Columbia seeks clarification of the relationship between imbalances and other to pages 328 and 329.

Exchange gas received or delivered should be reported in light of the Exchange Gas Transactions schedule, page 328. Gathering sales and purchased volumes should be added to totals because this is a balance sheet item for the year of activity and those volumes are needed to balance the gas account. Last, the lines for imbalances and other have been deleted.

System Maps—Page 522

The Commission is clarifying the information to be shown on the maps and is eliminating the requirement that transmission lines be colored in red, if they are not otherwise clearly indicated.

INGAA supports the above-described clarification and elimination. Panhandle would incorporate the System Flow Map from Form 567 into page 522 and eliminate Form 567 because the system flow Map provides a more detailed map. Columbia asks for clarification about incremental facilities.

The Commission rejects Panhandle's request to substitute the System Flow Map because the Form No. 2 map provides useful information, such as geographical information, that is not shown on the System Flow Map. The Commission clarifies that only major incremental facilities should be shown on this map.

Index—Pages 1–4

The Commission is revising the index to reflect the above changes.

B. Revisions to Form No. 2–A

At present, a Nonmajor natural gas company must submit Form No. 2–A. The respondent is required to submit designated pages reflecting data designed for Nonmajor natural gas companies in the Uniform Systems of Account. However, if the respondent maintains the ''Major'' designated accounts, it may substitute certain pages from Form No. 2. The Commission is requiring Nonmajor respondents to submit only Form No. 2 pages as their Form No. 2–A report. In addition, the Commission is replacing Mcf with Dth and revising the instructions, including CPA certification as discussed above for Form No. 2. A sample copy of the revised Form No. 2–A is attached as Appendix C.

The revised Form No. 2–A will consist of instructions, identification, attestation, and list of schedules (pages i and ii and 1 and 2), the following pages from Form No. 2: 107, 110–122, 204–209, 212, 213, 219, 300, 301, 317–325, 520, 551, and the following pages from current Form No. 2–A as renumbered: 26 as 211, 16 as 232, 19 as 250, and 20 as 278.

In addition, the Commission is revising the definition of Nonmajor as follows: ''Nonmajor means having annual gas sales or volume transactions exceeding 200,000 Dth in each of the three previous calendar years and not classified as 'Major'.'' This comports with the changes to section 260.2 of the Commission's regulations to include the minimum filing threshold for filing Form No. 2–A and to state the minimum filing threshold on a dekatherm basis.

INGAA supports the Commission's proposal to adopt, for Form No. 2–A reporting purposes, the use of Form No. 2 pages as proposed in the NOPR and the renumbering of Form No. 2–A pages. Freeport also agrees with the proposed change to 18 C.F.R. section 260.2 on who must file Form No. 2–A.

INGAA submitted specific comments on the proposed Form No. 2–A pages. INGAA's comments for the proposed Form No. 2–A pages 110–111, 112–113, 114, 115–116, 120–121, 122–123, 212, 213, 300–301, 327 and 520–521 are identical to the comments it submitted for the proposed changes to the same Form No. 2 pages; therefore, there is no reason to repeat them here. For the reasons discussed in the changes to Form No. 2, the Commission will adopt, for those Form No. 2–A pages, the same changes that the Commission adopted in this final rule for Form No. 2.

INGAA suggested the following revisions to the following proposed Form No. 2–A pages:

Statement of Retained Earnings for the Year—Pages 118–119

INGAA agrees with the proposal to require reporting of current year and previous year data and to delete instruction 8. It suggests that, on NOPR page 118–a, line 38 (now 36) be corrected to read ''Balance—End of year (Enter total of lines 1, 9, 15, 16, 22, 29, 36 and 37)''.

The Commission agrees with INGAA's suggested change and will adopt it as modified, for line 36 page 118 of the Form No. 2–A.

Gas Plant in Service—Pages 204–209

No changes were proposed to these pages. INGAA suggests that the pages be revised to indicate which lines are used for totals and that lines 114, 115 and 116 on page 209–a should be on page 209.

The Commission agrees with INGAA's suggested change to indicate which lines are used for totals and will adopt the following modifications: (1) Line 5 will read ''TOTAL Intangible Plant''; (2) line 26 will read ''TOTAL Production and Gathering Plant''; (3) line 36 will read ''TOTAL Products Extraction Plant''; (4) line 37 will read ''TOTAL Natural Gas Production Plant''; (5) line 39 will read ''TOTAL Production Plant''; line 54 will read ''TOTAL Underground Storage Plant''; (6) line 65 will read ''TOTAL Other Storage Plant''; (7) line 75 will read ''TOTAL Base Load Liquefied Natural Gas, Terminating and Processing Plant''; (8) line 76 will read ''TOTAL Natural Gas Storage and Processing Plant''; (9) line 86 will read ''TOTAL Transmission Plant''; (10) line 102 will read ''TOTAL Distribution Plant''; (11) line 114 will read ''Subtotal''; (12) line 116 will read

''TOTAL General Plant''; (13) line 117 will read ''Total (Accounts 101 and 106)''; (14) line 121 will read ''TOTAL Gas Plant in Service,'' and (15) various existing lines will be renumbered.

With regard to INGAA's suggestion that lines 114–116 be moved to page 209, this problem will be solved when the Form No. 2–A is type-set for printing; accordingly these lines will actually appear on page 209 when the Form No. 2–A is printed for distribution.

Gas Operation and Maintenance Expenses—Pages 320–325

No changes were proposed to these pages. INGAA suggests that the page 322 be revised to correct line 145 to read ''Total Maintenance (Enter Total of lines 136 through 144).''

The Commission agrees with INGAA's suggested change and will adopt it except for the Word ''Enter.''

In addition, the Commission has revised the instructions to the following pages.

General Information on Plant and Operations—Page 211

The Commission has deleted instruction 3 which required the reporting of information related to the local distribution of natural or mixed gas at the retail level.

Capital Stock Data—Page 250

The Commission has added a descriptive instruction and revised stylistically the existing instruction for this page.

C. Revisions to Form No. 11

Natural gas pipelines are required to file with the Commission the FERC Form No. 11, which is a monthly statement setting forth certain volume, revenue, and expense data. The Commission is modifying Form No. 11 to accomplish three different purposes. First, the Commission is modifying Form No. 11 to reduce the reporting burden on the pipelines, since certain existing portions are no longer necessary. Second, Form No. 11 is being modified to reflect the reduced emphasis on sales service, and the greater emphasis on transportation and storage services. As explained in the NOPR, as a result of the restructuring of the interstate pipeline industry under Order No. 636, the pipeline's sales business is declining while the pipeline's transportation and storage business is increasing in relative importance. Much of Form No. 11 was geared towards the collection of sales-related data. Third, the Commission is modifying Form No. 11 to ensure that the data collected in the Form No. 11 and the Form No. 2, as revised, is more consistent. This consistency will improve the usefulness of the data collected by the Commission.

In the NOPR, the Commission essentially proposed to: (a) Reduce the monthly reporting requirement to a semi-annual reporting of monthly data; (b) remove or consolidate certain portions of the Form No. 11; (c) collect the Form No. 11 data in the same general format as proposed in Form No. 2; and (d) make certain other miscellaneous changes throughout many parts of the Form. After reviewing the comments received on the Form No. 11 proposal, set forth below, the Commission is adopting a Form No. 11 that is significantly less burdensome in detail than that proposed in the NOPR.[71] As discussed *infra*, the Commission is requiring that the simplified Form No. 11 monthly data be submitted quarterly, rather than semi-annually as proposed, or monthly, as it is currently filed. Thus, throughout the Form No. 11, we are changing the title of the Form No. 11 to ''Natural Gas Pipeline Company Quarterly Statement of Monthly Data.'' The Commission is also modifying Form No. 11 to substantially reduce the data collected by the form. For example, Form No. 11 will collect only data on volumes and revenues; we are eliminating the reporting of all expense data in the Form No. 11.

1. Comments

KN suggests combining Form No. 11 with Form No. 2, while INGAA and CNG recommend eliminating Form No. 11. In support, INGAA and CNG argue the information is already collected in Form No. 2. Further, they argue that consolidating the monthly reports into two semi-annual reports does not reduce the reporting burden. INGAA states the annual industry reporting burden for a semi-annual Form No. 11 would be 6,600 hours, compared to the Commission's estimate of 920 hours. Finally, INGAA states that the semi-annual data would be filed too late to be used as industry indicators, and too incomplete to provide an adequate picture of pipeline operations or financial performance.

Several commenters support the continuation of Form No. 11, but suggest changes to the proposed Form No. 11. Panhandle believes that the required level of preparatory effort would be reduced, without sacrificing the usefulness of the information, if the second semi-annual report was incorporated as part of the Form No. 2, and the information was compiled quarterly, rather than monthly. The Industrials oppose semi-annual filings, and urge the Commission to require monthly filing. They argue availability of this information on a monthly basis helps customers and others determine when and whether settlements on throughput or for interim rates are appropriate. NI-Gas, on the other hand, does not object to semi-annual filing, but urges continued reporting of monthly data (which is, in fact, what was proposed by the NOPR).

NGSA recommends that the Form No. 11 reflect volumes and revenues by rate category used by the pipeline. Further, it would like revenues to be reported by rate schedule, month, and rate category, separately showing base rate revenue and revenue from each surcharge. DOE uses Form No. 11 data in several publications. It suggests that rate schedule information be enhanced with a description to indicate the different elements of service that are included. DOE suggests the following classifications:

No-notice transportation
Balancing
Firm transportation
Storage and transportation (firm)
Storage and transportation (interruptible)
Incremental
Interruptible transportation
Short-term transportation
Released firm transportation
Other

The Industrials suggest a breakout by at least long-term firm (one-year or more), short-term firm (less than a year), and interruptible transportation; it states that the proposed requirement for reporting by rate schedule fails to capture short-term firm service.

DOE also asserts the value of Form No. 11 data could be enhanced by the inclusion of common codes and standardization. The data in Form No. 11 should be easily accessible (and downloadable) on a friendly bulletin board system which provides access to the general user community. INGAA makes the following specific suggestions if the Commission chooses to retain Form No. 11:

- Make the reporting in Form No. 11 consistent with Form No. 2 by changing instructions to indicate that all storage service revenues should be reported on lines 15–17 and that withdrawal quantities related to those storage services also be included on those lines.

[71] Revised Form No. 11 is attached as Appendix D. Appendix D is not being published in the **Federal Register**, but is available from the Commission's Public Reference Room and on the Commission's Gas Pipeline Data Bulletin Board System.

Remove language that indicates that injection and withdrawal revenues should be reported on lines 46 and 47.

• Eliminate requirements to provide breakouts of revenue and quantities for services to interstate pipelines.

• Correct the instruction for line 32 to refer to lines 30 and 31, not 22 and 23.

• Add an instruction for line 42 to require the reporting of the estimated total project cost of all of the projects that started construction during the reporting period that are estimated to individually cost at least $5,000,000.

2. Commission Ruling

The Commission is sensitive to the concerns of the commenters that the proposed Form No. 11 filing requirement places a burden on the pipeline companies. Therefore, we have carefully reconsidered the need for the data in the Form No. 11. We will not accede to the pipelines' wish that the Form No. 11 be eliminated. We are adopting a requirement to file monthly data quarterly. However, we are substantially reducing the monthly data required by this form from the previous requirements and the requirements proposed in the NOPR.

Proposed Parts III Income Data, IV Other Selected Data, and V Operation and Maintenance Expense, will be deleted. Part II Revenue Data is being retained. The information collected in Part II, Revenue Data, is the most fundamental information about the pipeline industry—the amount of gas sold, transported, and stored. The Commission continues to need, and will make use of, this basic information to fulfill its responsibility to oversee the gas pipeline industry. Contrary to INGAA's assertion, the Form No. 11 and Form No. 2 data do differ. The Form No. 11 collects monthly data allowing aggregation of data for any 12-month period, while Form No. 2 collects data aggregated for a calendar year. The collection of monthly data will allow the Commission to follow developing trends on a pipeline's system. It will also permit observation of seasonal variation in throughput, something the Commission cannot do with the data filed in Form No. 2. This fundamental data makes it possible for the Commission to determine more accurately the effects of its policies and decisions on the pipeline industry.

To make the data more timely, we will require the form to be submitted quarterly, rather than semi-annually, as proposed, and the data to be submitted within 45 days of the end of the calendar quarter. However, as noted, we will retain the requirement that monthly data be reported. In other words, monthly data will be reported quarterly. The request that data be filed monthly will be denied. The quarterly filing requirement ensures more accuracy in the data filed. It also balances the need for timely data against the burden of filing. Since the monthly character of the data is being retained, we will not combine Form No. 11 with Form No. 2.

Several commenters ask that the data be reported under additional classifications or in more detail. The Commission will continue to require the data in Form No. 11 be reported on the same basis as in Form No. 2 to maintain consistency. DOE requests that we require the pipelines to list the nature of the service provided, *e.g.,* no-notice transportation, firm transportation, balancing, *etc.* Many of the classifications requested can be determined by the rate schedule specified. The nature of the service provided under each rate schedule is reported in the tariff. The tariffs are available for downloading, together with the appropriate software, from the Commission's bulletin board system.

The Commission will adopt the detailed revenue reporting requested by NGSA. The Form No. 2 separates revenues into a column for transition costs and take-or-pay, a column for GRI and ACA surcharges, and a column for other revenues (See Account No. 489). We adopt this structure for revenue reporting in Form No. 11.

DOE's suggestion that the data be standardized has merit. The Commission wants the data from various sources to be interrelational. That is, the data from one source should be capable of being linked with data from another source. By providing for the linkage of data from different sources, the Commission can avoid duplicative reporting requirements. To enhance this capability, the instructions in the forms and reports will direct the respondent to report the rate schedule numbers the same way they are reported in all other submittals to the Commission.

DOE also suggests the data be accessible and downloadable on a bulletin board system which provides access to the general user community. Since June 8, 1995, the Commission has made data filed electronically in the Form No. 11 available on its Gas Pipeline Data bulletin board (GPD) for download. The Commission will continue to disseminate the electronic Form No. 11 data in this manner.

The specific changes in each section of the Form No. 11 are as follows:

General Information and General Instructions

General Information section I (Purpose) is revised to reflect the elimination of the collection of expense data as a purpose. General Information section II (Who Must Submit) is modified to exclude gas sold for resale from the calculation for determining which gas companies must submit the Form No. 11. It is also modified to change the requirement to comply to those gas companies whose gas transported or stored for a fee exceeded 50 million Dth in each of the three previous calendar years, rather than in only the previous calendar year, as the current Form No. 11 requires. General Information section III (When to Submit) is changed to require that the Form No. 11 be filed quarterly. This section also sets forth a reporting schedule. Each quarterly report is due 45 days after the end of the three-month period being reported. Currently, the monthly reports are due 40 days after the end of each month being reported. Finally, General Information section IV (What and Where to Submit) is changed to delete reference to the Commission's street address for the filing of the Form No. 11.

General Instruction I is revised to require consistency between the data filed on Form No. 11, and the data filed with Form No. 2. It is the intent of the Commission to be able to compare the aggregation of twelve months of information submitted on the Form No. 11 with data filed on the Form No. 2. Comparisons with the Form No. 2 data may require aggregation of the Form No. 2 data as well.

There is no change to General Instruction II, specifying the use of parentheses to indicate negative amounts.

The Commission is adding a requirement to Instruction III to require that quantities in the Form No. 11 be reported in thousands of dekatherms. The change to dekatherms is consistent with the changes proposed to the Form No. 2. Revenues will continue to be reported in thousands of dollars, as currently required by instruction III.

General Instruction IV, allowing for the use of footnotes in the Form No. 11, is modified to change the reference to the part number where the footnotes are listed from Part VI to Part III.

General Instruction V, regarding estimated data, is removed. Since the average lag time between the month reported and the date the filing is made will be longer, the Commission anticipates that actual data will be readily available. Thus, estimated data

will not be necessary. General Instruction V is replaced with an instruction specifying that one Part II form must be reported for each month.

Specific Instructions and Definitions

The instruction for the item ''All'' is modified to specify that quantities must not be adjusted for discounts. We are adding specific instructions for items 7 through 12 and 15 through 17, to conform to the instructions contained in Form No. 2 for reporting transportation and storage services, and to clarify the reporting of storage revenues. In the NOPR, we proposed to make separate, specific instructions for items 15 through 17 for the reporting of storage revenues, which indicated that certain storage revenues were to be reported at those items, and other storage revenues were to be reported at items 46 and 47. In accordance with INGAA's suggestion, we are eliminating those specific instructions for items 15 through 17, and requiring all storage service revenues be reported at items 15 through 17, including the withdrawal quantities related to those storage services.

In the NOPR, we proposed specific instructions for items 7 through 12 that required, among other things, that transportation delivered to a pipeline under a rate schedule be reported separately from transportation delivered to others under that rate schedule. INGAA asks us to eliminate this requirement to provide breakouts of revenue and quantities for services to interstate pipelines. A similar provision proposed in Form No. 2 is not being adopted. To retain consistency between the reporting of revenues in Form No. 2 and Form No. 11, we will not adopt the proposal in the NOPR. This action satisfies INGAA's request.

Existing specific instructions for items 22, 24, 27 and 38 through 40 are deleted, since the Commission no longer proposes to collect information on these items, which are contained in Parts III and V, that are now being deleted. The remainder of INGAA's suggestions, regarding the Commission's proposed specific instruction for item 32, and the addition of an instruction for item 42 are no longer relevant given the elimination of the Form No. 11 reporting requirements in Parts III, IV, and V.

All existing definitions in the Form relate to purchases or sales of natural gas. The Commission is simplifying the reporting of sales and purchase information; therefore, the definitions are removed as no longer necessary.

Identification (Part I) and Revenue Data (Part II)

Except for revising the instruction to read ''Period Reported'' instead of ''Month Being Reported,'' the Commission is leaving Part I intact. The Commission is modifying Part II, which relates primarily to sales service, to reflect the decreased emphasis on sales service, and increased emphasis on transportation and storage services subsequent to the implementation of Order No. 636. Specifically, Part II is modified to collect information for sales, transportation, gathering, storage and other revenue categories in the same way it is proposed to be collected in the Form No. 2, but on a monthly basis rather than annually.

Income Data (Part III), Other Selected Data (Part IV), and Operation and Maintenance Expense (Part V)

The Commission is eliminating Parts III, IV, and V of the Form No. 11. The information required to be reported under these Parts is no longer necessary for the Commission's regulatory review purposes.

D. Other Revisions

Section 260.1 requires that major natural gas companies, as defined in part 201 of the Commission's regulations, file with the Commission an annual report, designated as FERC Form No. 2. The Commission is modifying section 260.1 to reflect in the text of the regulations the new definition of ''major company'' (a natural gas company whose combined gas transported or stored for a fee exceeded 50 million Dth in each of the three previous calendar years). The Commission is also specifying in section 260.1 that newly established entities must use projected data to determine whether the Form No. 2 must be filed, and that the Form No. 2 must be filed electronically. In addition, the Commission is revising section 260.1 to delete reference to an effective date, and to remove references to reporting requirements pre-dating December 30, 1988.

Section 260.2 requires that nonmajor natural gas companies file an annual report, designated as FERC Form No. 2–A. The Commission is modifying section 260.2 to specifically define who must file the Form No. 2–A. Section 260.2 is revised to state that those natural gas companies required to file the Form No. 2–A are companies not meeting the filing threshold for Form No. 2, but having total gas sales or volume transactions exceeding 200,000 Dth in each of the three previous calendar years. The Commission is also specifying in section 260.2 that newly established entities must use projected data to determine whether the Form No. 2–A must be filed, and that the Form No. 2–A must be filed electronically. In addition, the Commission is revising section 260.2 to delete reference to an effective date, and to remove references to reporting requirements pre-dating December 30, 1988. These latter changes mirror the changes set forth in section 260.1 governing the FERC Form No. 2.

Section 260.3 requires that natural gas companies file with the Commission a monthly statement—the FERC Form No. 11—containing information concerning selected revenues, income statements, and other items, and details of operation and maintenance expenses. The Commission is modifying the title and paragraph (a) of section 260.3 to reflect the change of the Form No. 11 to a quarterly statement of monthly data, that no longer collects expense data. In paragraph (b), the Commission is redefining who must file the Form No. 11 (natural gas companies whose gas transported or stored for a fee exceeded 50 million Dth in the previous three calendar years), and is specifying that the form be filed electronically. Further, the Commission is revising paragraph (c) prescribing when to file the Form No. 11 to reflect the quarterly filing schedule set forth in the Form No. 11 itself. In addition, the Commission is removing references to dates that have long since passed, and references to reporting requirements pre-dating November 30, 1988.

Section 260.4 requires that importers and exporters of natural gas file with the Commission an annual report, FPC Form No. 14. Section 260.11 requires natural gas companies operating an underground natural gas storage field to file with the Commission a monthly underground gas storage report, Form No. 8. In the NOPR, the Commission did not propose any substantive changes to these sections. Instead, the Commission sought comments on whether the collection of the information contained in these forms by other governmental or private sources is currently adequate, making the collection of the same information in these Commission forms unnecessary.

INGAA, American Forest, KN, and ANR/CIG recommend the elimination of FPC Form No. 14. American Forest and INGAA note that DOE's Office of Fossil Energy collects periodic reports on export and import activity as part of its oversight responsibility. They state that these reports collect substantially the same information as required by Form No. 14. According to INGAA, the elimination of this form would reduce

the burden on respondents by about 1,100 hours per year. ANR/CIG concurs that this data is collected elsewhere.

The Commission will eliminate the requirement for filing FPC Form No. 14 from its regulations. The Commission's primary need for natural gas import and export information is related to its administration of Presidential Permits for import and export facilities under Executive Order No. 10485. While we need certain capacity and usage information to authorize facilities and verify the approved capacity of such natural gas import and export facilities, the Commission does not generally need information on the purchasers or prices of imported and exported natural gas and LNG.

Thus, the Commission expects that it will have adequate data on natural gas imports and exports through any continuing collection of import-export data that DOE/EIA may pursue, DOE/Fossil Energy's (FE) Quarterly Reports, or data requests in specific case processing or litigation. [72] Although the DOE/FE Quarterly Reports and Form No. 14 have different data items, it is true, as INGAA and American Forest state, that most of the substantive information is duplicative.

The Commission's Staff will consult in more detail with DOE/EIA and DOE/FE on maintaining an ongoing, non-duplicative collection of import-export data by DOE, such as peak-day usage, differentiation of multiple operators at singularly named import-export points, and the BTU content of natural gas and LNG. Section 260.4, prescribing the Form No. 14, is deleted from the regulations.

With respect to the Form No. 8, ANR/CIG, INGAA, KN, DOE, and El Paso support its elimination. They argue this information is collected elsewhere. Specifically, DOE notes that it collects monthly injection and withdrawal data from all companies operating storage fields, including those who file Form No. 8, in its ''Underground Gas Storage Report,'' Form EIA–191. DOE states that the Form EIA–191 is a more comprehensive form than the Form No. 8, and collects the data that the Commission requires to monitor jurisdictional companies. Thus, DOE maintains that the Commission would no longer need Form No. 8 if it used the data from Form EIA–191. However, DOE points out that, currently, the data submitted in Form EIA–191 are considered confidential. If the Commission agrees with DOE's proposal to use Form EIA–191, DOE states that it will submit Form EIA–191 to the Office of Management and Budget for clearance to remove the confidentiality requirements. DOE notes that a recent attempt to do so in 1991 did not succeed. However, DOE believes that pipelines' concerns voiced at the time may have since decreased with the implementation of Order No. 636, as many companies have provided copies of their Form EIA–191 filings to the trade press. DOE states that upon OMB's approval for the removal of the confidentiality requirements, EIA will continue to process the EIA–191, and will make the data available to the Commission on a timely basis.

INGAA concurs that there is no regulatory reason for both DOE and the Commission to spend taxpayer dollars for duplicate reporting. INGAA states that gas storage data is reported in the monthly Form EIA–191 and the semi-annual storage reports under existing sections 284.106(g) and 284.223(d)(5), and that weekly estimates of working gas in storage are available by region through the ''American Gas Storage Survey'' five days after the end of the reporting week. INGAA notes that elimination of Form No. 8 would reduce the industry reporting burden by 1,440 hours per year.

El Paso also supports elimination of this form or, at least, elimination for those pipelines with facilities that are not operated as traditional underground storage facilities. For example, El Paso's Washington Ranch Storage Facility is operated exclusively as an adjunct to El Paso's transmission system for load balancing, line pack, and pressure control. El Paso argues that the Form No. 8 reporting requirements should not apply to this facility.

The Commission will eliminate the requirement to file Form No. 8. One of the objectives of this rulemaking is to eliminate duplicative or unnecessary reporting requirements. DOE's proposal that the Commission use the information from Form EIA–191 furthers this goal. As a result of pipeline restructuring, the data from Form EIA–191 can typically be used to meet the Commission's requirements for storage data in lieu of the Form No. 8 information. Although we do not seek removal of the non-disclosure provisions from the Form EIA–191 data collection as a pre-condition to elimination of the Form No. 8, we endorse DOE's efforts to reach consensus with the Form EIA–191 respondent population on this issue.

In the event that OMB does not approve DOE's request to remove the confidentiality provision from the Form EIA–191 data collection, we will not reinstate Form No. 8. For most purposes, aggregated data derived from Form EIA–191 should suffice. In the event specific pipeline storage data is required for a project or proceeding, and the Form EIA–191 data continues to be confidential, the Commission could obtain the company-specific Form EIA–191 data from DOE pursuant to the confidentiality provisions of this data collection. The Commission also reserves the right to seek whatever information is required through a data request in individual proceedings. Section 260.11, prescribing the Form No. 8, is deleted from the regulations.

Section 260.9 requires every natural gas pipeline company to report to the Commission serious interruptions of service to any wholesale customer involving facilities operated under certificate authorization from the Commission. The Commission is modifying sections 260.9(b) and (e) to include facsimile transmission as an optional method for reporting interruptions of service. This recognizes advances in technology and current practice. Further, the Commission is modifying sections 260.9(b) and (c) to require that companies send telegrams, facsimile transmissions, or supplemental information to the Director, Division of Environmental and Engineering Review, Office of Pipeline Regulation, the successor to the Director, Division of Engineering, Market and Environmental Analysis, Office of Pipeline and Producer Regulation. The Commission is also deleting reference to the Commission's street address, and correcting the Commission's zipcode in section 260.9(b).

Section 260.13 sets forth the requirements for the filing of the FERC Form No. 549–ST, Form of self-implementing transportation reports. The initial and subsequent reports currently filed by interstate and intrastate pipelines, Hinshaw companies, and local distribution companies undertaking transportation transactions under subparts B, C, or G of part 284 are required to be made on the FERC Form No. 549–ST. Because the Commission is eliminating the requirements of filing initial and subsequent reports for companies subject to the requirements of subparts B, C, and G of part 284, as further described below, the FERC Form No. 549–ST is no longer necessary. Accordingly, the Commission is removing section 260.13.

Section 260.15 requires that natural gas companies making direct sales in

[72] To the extent DOE/EIA continues to require the Annual Report for Importers and Exporters it will have to pursue separate OMB clearance for this data collection on its own.

interstate commerce of natural gas to customers consuming such gas file a Report of Alternate Fuel Demand Due to Natural Gas Curtailment, FPC Form No. 69. As noted in the footnote to section 260.15, Form No. 69 was discontinued and replaced with Form No. EIA–50 by order issued June 23, 1978.[73] The EIA Form No. 50 was eliminated in 1984 after the Office of Management and Budget (OMB) rejected the Energy Information Administration's (EIA) request for an extension of OMB approval of the data collection. Thus, it now appears that the footnote to 18 CFR 260.15 references a non-existent EIA form as a replacement for the Form No. 69. Since neither the Commission nor EIA has collected this data since 1984, and there has been no significant curtailment of natural gas in the nation for more than ten years, the Commission is removing section 260.15.

In addition, the Commission is changing all references in Part 260 from the ''FPC'' and the ''Federal Power Commission'' to the ''FERC,'' and ''Federal Energy Regulatory Commission,'' respectively.

VII. Part 284

A. Introduction

Under Part 284, the Commission is revising the reporting requirements, and/or certain non-reporting requirements, contained in Subparts A, B, C, E, G, J, and L. These subparts set forth general provisions and conditions (Subpart A), and govern the transportation of natural gas by interstate pipelines under section 311(a)(1) of the NGPA (Subpart B), the transportation of natural gas by intrastate pipelines under section 311(a)(2) of the NGPA (Subpart C), the assignment by any intrastate pipeline to any interstate pipeline or local distribution company of contractual rights to receive surplus natural gas under section 312 of the NGPA (Subpart E), the transportation of natural gas by interstate pipelines on behalf of others, and services by local distribution companies, under blanket certificates authorized by section 7(c) of the NGA (Subpart G), (General Provisions and Conditions), as well as the sale of natural gas under section 7(c) blanket certificates by interstate pipelines offering transportation service under subparts B or G (Subpart J), and by non-interstate pipeline sellers (Subpart L).

There are six major categories of changes to the Part 284 provisions: (1) the removal of the initial full report, subsequent reports, annual report, and notification of termination, currently required under subparts B, G, and/or J; (2) the removal of the initial full report, subsequent reports, and notification of termination required under subpart C; (3) the refinement of the Commission's discount reporting requirement; (4) the addition of a new reporting requirement under subparts B and G, an electronic Index of Customers; (5) the elimination as obsolete of certain non-reporting provisions in subparts A, B, C, and G, setting forth interim measures related to the implementation of Order Nos. 436 and 636; and (6) other changes that either are grammatical in nature, remove references to deadlines that have long since passed or other outdated requirements, or reflect the use of current, more accurate, terminology. These revisions are discussed more fully below.

B. Removal of Initial, Subsequent, Annual, and Termination Reports Under Subparts B, G, and J

In light of all of the broad changes that are being required in this rule, and the changes to the industry brought about by Order No. 636, it is no longer necessary to require interstate pipelines to provide the detailed reporting set forth under the initial, subsequent, termination, and annual reports in sections 284.106 and 284.223. We have determined that the information included in these reports is no longer required for our regulatory review of the natural gas industry.

Accordingly, the Commission is removing paragraphs (a), (b), (c), and (d) of section 284.106, and paragraph (d) of section 284.223, to delete the requirements that interstate pipelines file the initial full report, subsequent reports, notification of termination, and annual report. The Commission is also removing sections 284.106(e) and 284.223(b) relating to the fees accompanying the initial full report, and sections 284.106(f) and 284.223(c), prescribing the use of FERC Form No. 549–ST for the initial and subsequent reports, since they would no longer apply due to the discontinuance of the associated reporting requirements.

However, the Commission will retain the requirement in section 284.106(a)(4) that an interstate pipeline file a statement with the Commission that the pipeline has provided notification of bypass of a local distribution company (LDC) to the LDC and the LDC's regulatory agency. The Commission will also retain the semi-annual storage reports currently required under sections 284.106(g) and 284.223(d)(5).

Because sections 284.106 and 284.223 will require identical reporting requirements, the Commission is removing all of the filing requirements from section 284.223(d), and substituting a statement that all pipelines transporting gas under section 284.223 of Subpart G must comply with the reporting requirements specified under section 284.106 of Subpart B. There is no reason to specify the same exact reporting requirements twice in the regulations.

In the NOPR, the Commission proposed to remove the annual sales report required under section 284.288 of Subpart J, applicable to pipelines that engage in sales under a blanket certificate and also offer interstate transportation under subparts B and G. The Commission proposed to remove this reporting requirement to eliminate duplicative reporting requirements, because most of the information was also being collected under the proposed Form No. 2. However, the Form No. 2 that is being adopted in this final rule no longer captures transaction-specific volume and revenue data that the section 284.288 sales report collects. Therefore, the Commission is retaining this sales report.[74]

These changes are the same changes proposed in the NOPR. Our proposed deletion of these reporting requirements received strong support by the commenters. INGAA, Texas Gas, KN, Columbia, and NI-Gas support the elimination of the initial, subsequent, termination, and annual reports under subparts B, G, and J without reservation.

Other parties offered conditional support. American Paper supports the proposed modifications to subparts B and G in light of the other proposals made by the Commission in the NOPR, including the requirement that pipelines maintain and update an Index of Customers and file discount rate reports. Similarly, APGA supports the elimination of these reports provided that the Commission adopts section 154.1 requiring pipelines to file contracts with the Commission when they differ from the form of service agreement. Columbia and SoCal express support for the removal of related section 260.13 requiring the initial and subsequent reports to be reported on the FERC Form No. 549–ST. SoCal's support is contingent upon the

[73] FERC Statutes and Regulations, Regulations Preambles, 1977—1981, ¶ 30,013 (1978).

[74] See Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, III FERC Stats. & Regs. Preambles ¶ 30,939 at p. 30,443 (April 8, 1992) (Order No. 636), *order on reh'g,* III Stats. & Regs. Preambles ¶ 30,950 at p. 30,624 (August 3, 1992) (Order No. 636–A), for the Commission's rationale for collecting this information.

Commission's adoption of the proposed discount rate report.

APGA, SoCal, and NI-Gas support the retention of the requirement that a pipeline file a statement with the Commission that it has provided notification of bypass of an LDC to the LDC and the regulatory agency.

Only our proposal to retain the two semi-annual storage reports required under sections 284.106(g) and 284.223(d)(5) generated requests for a different treatment. Texas Gas recommends the elimination of the semi-annual storage reports in light of the requirement to include information concerning firm storage service in the Index of Customers. INGAA suggests that the two semi-annual storage reports be combined into one annual storage report. INGAA states that this would provide the Commission with the data it needs while reducing the burden on the pipelines.

As noted above, the Commission is retaining the semi-annual storage reporting requirement. We will not adopt Texas Gas' request for elimination. The Index of Customers adopted in this rule will collect very limited information concerning firm storage service, and will not collect many of the data elements required by the semi-annual storage report. Nor will we adopt INGAA's proposal that the storage report be filed annually rather than semi-annually. The semi-annual nature of the reports derives from the timing of the reports. The reports are submitted so that the withdrawal season is reported separately from the injection season. This is an important distinction which the Commission does not wish to eliminate.

The Commission recognizes that some parties may withdraw their support for the elimination of the initial, subsequent, termination and annual reports, now that we have substantially modified the discount report and Index of Customers that were proposed. However, the proposed elimination of these reports was not solely dependent on the collection of the information elsewhere. As stated *supra*, the information in these reports is no longer needed for the Commission to carry out its regulatory responsibility.

C. Removal of Initial, Subsequent, and Termination Reports Under Subpart C

The Commission is deleting certain of the reporting requirements for intrastate pipelines transporting gas under NGPA section 311 under Subpart C. The Commission is eliminating the initial full report, subsequent reports, and notification of termination currently required under section 284.126. The Commission no longer finds these reports useful for regulatory review. In the NOPR, the Commission invited the parties to comment on our proposed removal of these reports. In response, KN, Transok, Enogex, Texas Intrastates, and NI-Gas filed comments supporting the elimination of the initial, subsequent, and termination reports required in section 284.126.

While the Commission is eliminating the annual reporting requirement for interstate pipelines, as described, *supra,* the Commission will continue to require intrastate pipelines to file the annual report currently required by section 284.126(c), as well as the semi-annual storage reports required under section 284.126(g), and the notification of bypass requirement currently included in the initial report, section 284.126(a)(6). INGAA suggests that the annual report be eliminated so that the requirements for intrastate reporting will mirror the requirements for interstate reporting. However, unlike the interstate pipelines, intrastate pipelines are not subject to the full force of the federal reporting requirements. Intrastate pipelines do not file Form No. 2, an Index of Customers, or general rate cases under section 4 of the NGA. Thus, fewer opportunities are available to the Commission and the public to obtain information about the intrastate pipelines' jurisdictional activities. The participation of the intrastate pipelines in the interstate market should be accompanied by accountability. Therefore, the Commission is continuing to require the intrastate pipelines to submit the annual report.

The Commission, though, is revising the annual report (now section 284.126(b)), as proposed in the NOPR, to reflect the fact that the transportation transactions are no longer docketed, and to require the specification of whether the transportation service is firm or interruptible. Until recently, intrastate pipelines only provided interruptible transportation service. Since they are now performing firm transportation service, firm and interruptible transactions must be separately identified for accurate reporting.

Transok and the Texas Intrastates ask that the filing date for the annual report be changed from March 1 to March 31 to make it easier to gather the necessary information, and consistent with the due date for FERC Form No. 2–A. We will grant this request for an extension of the filing date from March 1 to March 31. This will lessen the burden in submitting this information.

The Texas Intrastates argue that the requirement to file semi-annual storage reports (new section 284.126(c)) should be removed. They state that the Commission has no certificate jurisdiction over NGPA section 311 storage transactions by intrastate pipelines, and that the storage reporting requirement is duplicative because information on storage volumes is reported in the annual transportation report. Transok, also, supports eliminating the semi-annual storage reports, adding that the information is incomplete and not necessarily useful to the Commission because non-jurisdictional intrastate activity is not reported. Transok states that the DOE receives a complete report of aggregated intrastate and interstate storage activity each month through the Monthly Underground Gas Storage Report, Form EIA–191. Transok further argues that, in its case, the request for price information is moot because the Commission has approved market-based pricing for Transok's section 311 storage services.

Similarly, Equitable urges the Commission to exempt intrastate storage companies with market-based rates from the requirement to file semi-annual reports, since the reports require pricing information. Equitable maintains that where market-based rates are in effect, the Commission does not need pricing information to determine if the rates charged exceed allowed maximums, or the extent of discounting for future ratemaking purposes. Equitable states that in a competitive market, price transparency occurs, if at all, through market channels.

The Commission will not eliminate the semi-annual storage report. Contrary to the Texas Intrastates' assertion, storage reporting is expressly excepted from the annual transportation report. This report, therefore, is not duplicative. Furthermore, the Form EIA–191 cannot be substituted for the semi-annual storage data. As the Commission stated in Order No. 636–A, [75] the EIA does not collect data by individual customer, nor does it collect rate and revenue data. In addition, the pricing information for storage service subject to market-based pricing is not moot. Although the Commission does not have certificate jurisdiction over NGPA Section 311 intrastate storage service, Section 311 tasks the Commission with the responsibility to ensure rates and charges are fair and equitable. [76] For the Commission to carry out this

[75] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, III Stats. & Regs. Preambles ¶ 30,950 at p. 30,581 (August 3, 1992) (Order No. 636–A).

[76] 15 U.S.C. 3372.

responsibility, it is important for rates charged to be reported. It is even more critical for the Commission to review pricing when the Commission is relying on competition to regulate rates, rather than scrutinizing the underlying cost of service. Thus, we will not exempt intrastate storage companies charging market-based rates from the requirement to file semi-annual storage reports.

Accordingly, the Commission is deleting from section 284.126 existing paragraphs (a) (initial full report); (b) (subsequent reports); (d) (notification of termination); (e) (filing fees); and (f) (reporting form).[77] The notification of bypass in paragraph (a)(6) is now paragraph (a), the revised annual report is now paragraph (b), and the semi-annual storage report is paragraph (c). The only change we are making with respect to section 284.126 in this final rule from what was proposed in the NOPR, is the extension of the filing deadline of the annual report from March 1 to March 31.

Finally, the Commission is adopting an additional change proposed in the NOPR in relation to Subpart C. The Commission is revising the filing requirements under section 284.123(e) to require that the statement filed by an intrastate pipeline within 30 days after commencement of new service under subpart C, include the rate election made by the intrastate pipeline under section 284.123(b).

D. Modification of Discount Reports

1. NOPR Proposal

In the NOPR, the Commission proposed to combine the following two discount reporting requirements to avoid duplication. Section 284.7(d)(5)(iv) presently requires that all pipelines charging a discounted rate for transportation service under subparts B and G of Part 284 file, within 15 days after a billing period, a report with the Commission identifying the maximum rate or reservation fee, the rate or fee actually charged during the billing period, the shipper, and any affiliation between the shipper and the pipeline. Section 250.16(d) requires that pipelines transporting gas under subparts B or G that are affiliated with a gas marketing or brokering entity and conduct transportation transactions with such affiliate, also maintain a variety of more detailed information on the transportation discounts they provide to affiliate and non-affiliate shippers. For example, section 250.16(d) requires maintenance of information on quantities scheduled under the discount, while section 284.7(d)(5)(iv) does not require the filing of any quantity information. Thus, the more detailed information required by section 250.16 only has to be maintained and made available to the Commission upon request, while the limited information required under section 284.7(d)(5)(iv) must be filed with the Commission.

Because the information required by section 284.7(d)(5)(iv) is also required by section 250.16(d), the Commission determined in the NOPR that these requirements were somewhat duplicative, and proposed to consolidate the two sections into one discount reporting requirement, new section 284.7(c)(6). The Commission proposed to eliminate the section 250.16(d) maintenance requirements, and expand the filing requirements under Part 284 to include most of the information previously maintained under section 250.16(d). Under this proposal, the major change from the existing section 284.7(d)(5)(iv) was the addition of a requirement for filing information on quantities of gas delivered for discounted interruptible service, and the contract demand for discounted firm service.[78] The Commission stated in the NOPR that information on quantities shipped and contract demand would enable the Commission and the market to compare the extent of interruptible and firm discounting by the pipelines with the extent of the discounting of capacity release transactions under the capacity release program established by Order No. 636. The Commission proposed that the discount information under new section 284.7(c)(6) be filed electronically with the Commission.

2. Comments

The Commission received a few comments in support of its proposal, but many more comments in opposition to proposed section 284.7(c)(6), as summarized below.

APGA believes that the proposed change to the discount reporting requirements will enhance the quality of data relating to pipeline discounts. The Registry also fully supports the modifications to the discount reporting requirements, and believes that respondents will be able to file the discount report using data that they already collect either to perform or monitor essential services.

NI-Gas supports the proposed discount rate report but asks that the Commission require information on the duration of discounts and the applicable delivery points. NI-Gas asserts that discount information must continue to be available on a timely basis to interested parties so that: (a) all interested parties can monitor the operations of the market; and (b) releasing shippers have access to the same information with respect to pipeline sales of capacity as pipelines have with respect to capacity releases. NI-Gas believes that the additional information is necessary to achieve this parity.

However, many of the commenters argue that the proposed modifications to the discount report will require pipelines to publicly divulge commercially sensitive information. Panhandle opposes the proposed reporting requirements on this basis. It argues that the Commission should ensure that the pipeline and its customers are not disadvantaged where there is a competitive alternative provided by a non-regulated entity. Panhandle states that shippers will be less inclined to deal with pipelines that are required to reveal sensitive data. As an alternative to the proposed requirement, Panhandle suggests providing for confidential periodic audits, and requiring pipelines to maintain information sets for a period of three years and to provide the information to the Commission on a confidential basis upon request.

Tennessee, also, believes that pipelines will be harmed if they are required to reveal customer specific details of their transactions as proposed in the discount rate reports and Index of Customers. Tennessee argues that this level of detail has not previously been required and is not necessary in a more competitive environment. It states that other market participants are not required to divulge transactional information at this level of detail. In any case, Tennessee argues that this information can be produced on a case-specific basis in response to a complaint or in a rate case, and that this is the wrong time to expand the type and detail of transactional information.

Consumers Power, NI-Gas, and AGA argue the proposed discount rate data coupled with other publicly available information, such as the proposed Index of Customers, will permit the derivation

[77] Freeport notes that paragraph 106 of the regulation text does not list current paragraph (d) regarding notification of termination among those paragraphs to be removed, contrary to the stated intent of the preamble. This was simply an oversight of the Commission in the drafting of the regulations. Paragraph (d) of section 284.126 should be eliminated, and in the regulation text to this final rule, we are including paragraph (d) among those to be removed.

[78] For interruptible discounts, the Commission proposed to include the zone in which the quantities are delivered. The Commission stated that information on zones was not needed for firm service because the information was to be reported in the index of customers under section 284.106.

of specific point-to-point contractual pricing information for firm capacity discounts. For this reason, they suggest the removal of the contract number from the discount rate report.

ANR/CIG note the increase in competition occasioned by the Commission's issuance of Order Nos. 436 and 636. They state that the discount reporting requirements provide such a wealth of information that competitors can target pipelines' customers to offer them better deals. ANR/CIG argue that specific details of individual discounts disadvantage the customers who have negotiated those discounts. Therefore, ANR/CIG assert that discount information should be limited to the information currently required.

INGAA argues the information the Commission proposes to collect is commercially sensitive and not necessary to meet the purpose of the discount reporting requirement—to ensure that discounts are provided on a non-discriminatory basis. INGAA asserts that the Commission did not explain in the NOPR why it is proposing to alter the purpose and method of providing the discount information, or why non-affiliate discount data is inadequate as currently filed. Texas Gas, while supporting the elimination of the duplicative discount reporting requirements, concurs with INGAA's position that certain items of information are inappropriate for public dissemination and unnecessary to fulfill the original purpose of the discount reporting requirements. INGAA adds that consideration of the data required to compare the extent of interruptible and firm discounting by pipelines with discounting in the capacity release market is better addressed in the Commission's rulemaking on capacity release. INGAA asserts that pipelines should be required to maintain, but not file, discount information, making the data available to the Commission upon request. Alternatively, if information on discount transactions must be filed, INGAA argues that the amount of information required must be reduced to no more than is currently reported. KN and MRT either adopt or support INGAA's comments with respect to the discount reports.

Some commenters propose that the Commission require a less frequent reporting of the discount information and a lengthening of the filing deadline, which is 15 days after the close of the billing period. If information on discount transactions must be filed, INGAA supports an annual reporting period for the discount report, or the filing of the discount report no more frequently than each quarter, with the filing deadline 30 days after the last month of the quarter in which billing occurs. If pipelines must file monthly, INGAA states, the filing deadline should be extended to 30 days after the close of the billing period. Texas Gas agrees. Panhandle argues that if discount reporting remains a requirement, monthly discount activity should be compiled and submitted on a quarterly basis, 45 days following the last day of each quarter. Panhandle states that all of the data elements could be maintained on a monthly basis for a three-year period from the time of the discounting.

3. Commission Ruling

In light of substantial opposition to the proposed changes, the Commission will not adopt the proposed modifications to the reporting requirements for discounted transactions outlined in the NOPR. The Commission will retain the separate, pre-existing requirements in sections 284.7 and 260.15(d), with some minor modifications. While this will involve some duplication, the existing requirements of section 284.7, together with the requirements in section 260.15(d), already provide the balance between public disclosure and confidentiality that the commenters seek. The changes to these sections proposed in the NOPR were not prompted by a need for more stringent reporting requirements to ensure discounts are offered on a non-discriminatory basis. Thus, the information available through, not only sections 284.7 and 250.16, but also through section 161.3, regarding affiliate discount transactions, continues to be sufficient for the market and the Commission to determine if any discriminatory activity is taking place.[79] This is, and remains, the primary purpose of these sections of the regulations.

Our proposal to expand the discount reports to include information was designed to increase the usefulness of the discount reports by enabling the market and the Commission to compare the extent of discounting by pipelines with the extent of discounting in the capacity release market. However, we have determined that the benefits realized from the creation of another use for the discount reports are outweighed by the risk of harm to pipelines and LDCs that would stem from the release of this detailed information.

The Commission is not modifying the existing regulations to adopt annual or quarterly discount reporting, nor lengthening the time of filing to 30 days after the close of the billing period. The primary purpose of the discount reports is to allow customers to monitor discounts to determine if the pipeline is discriminating. Such proposals would make it impossible for customers to monitor discrimination on a timely basis. Nor is the Commission adopting INGAA's suggestion that all of the discount data be maintained, but not filed. However, we are adopting INGAA's alternative recommendation that the data that is required to be filed be limited to the data currently required.

The Commission is removing the discount information currently required in section 284.7(d)(5)(iv), and reinserting it in a new section 284.7(c)(6). In addition, section 284.7(c)(6) now specifies that the pipeline report ''the full legal name of the shipper being provided the discount,'' rather than merely ''the shipper,'' as the current regulation specifies. Further, the Commission adopts the proposal from the NOPR to require the data filed under section 284.7 to be submitted electronically.

The Commission also is adding, as proposed in the NOPR, a provision specifying that the discount report does not apply to capacity releases at a discounted rate, except when the release is permanent. The discount report is designed to capture discounts granted by the pipelines. In a temporary capacity release, the releasing shipper is still obligated to the pipeline under its initial contract. Thus, even if the shipper obtaining released capacity pays a discounted rate, the pipeline has not agreed to the discount because the releasing shipper will owe the pipeline the maximum rate under its contract. In a permanent capacity release, however, the releasing shipper's contractual obligations end, and the replacement shipper enters into a new primary contract with the pipeline. Thus, if the pipeline offers a discount for a permanent capacity release, the pipeline is providing the discount and would have to report it.

E. Establishment of Electronic Index of Customers

1. NOPR Proposal

In the NOPR, the Commission proposed to require interstate pipelines

[79] Under Standard H of the Standards of Conduct, section 161.3(h), pipelines transporting gas under subparts B or G of Part 284 or subpart A of Part 157 that are affiliated with a gas marketing or brokering entity and conduct transportation transactions with such affiliate are now required to post discount information concerning affiliate transactions on their EBBs, including the delivery points to which the discount applies.

transporting gas under subparts B and G to provide an electronic Index of Customers [80] through a downloadable file that is updated monthly, and restated in its entirety annually (proposed sections 284.106 and 284.223). As further discussed below, the Commission is retaining the requirement that pipelines maintain a downloadable electronic file containing an Index of Customers in the final rule. However, the Commission is adopting an Index of Customers that is greatly abbreviated from the Index that was proposed in the NOPR, and is quarterly, rather than monthly.

The electronic Index of Customers proposed in the NOPR originated in the Electronic Bulletin Board (EBB) standardization proceeding in Docket No. RM93–4–000. [81] As explained in the NOPR in this proceeding, the EBB Industry Working Groups in the EBB standardization proceeding, which developed the standards implemented by the Commission, failed to reach consensus on a proposal for an Index of Customers that would provide the market with information about capacity rights. However, several groups of participants in the process submitted proposals for consideration.

In the NOPR, the Commission proposed to adopt an electronic Index of Customers containing the elements put forth by some of the EBB Working Group participants, as well as some additional elements. Specifically, the Commission proposed to include for each firm transportation and storage shipper: shipper's name; contract identifier; rate schedule; contract start date; contract end date; contract quantity; receipt points (and associated maximum daily quantities (MDQs)); delivery points (and associated MDQs); and conjunctive restrictions, if any; information on capacity held by rate zones to permit verification of reservation billing determinants; data elements applicable to storage service to capture the additional detail required to assess storage capacity; a unique customer identifier to permit the information in the Index of Customers to be tied to the electronic data interchange (EDI) information on capacity release; [82] and an authorization code to delineate whether the information is for Part 284, Subpart B, Part 284, Subpart G, or Part 157 service.

The Commission identified in the NOPR two functions of the Index of Customers. First, we stated that the Index would provide the Commission with the information that it requires for analyzing capacity held on pipelines (which was previously included in the initial and subsequent reports). Second, it would provide capacity information to the market, which would aid the capacity release system by enabling shippers to locate those holding capacity rights that the shippers may want to acquire.

However, the Commission recognized in the NOPR that some commenters in the EBB proceeding objected to the inclusion of receipt and delivery points in an index of purchasers. [83] Therefore, the Commission instructed commenters to address the relative burden or difficulty of including the receipt and delivery point information in the proposed Index of Customers, under the assumption that all of the other information proposed would be required.

2. Comments

The Commission received widespread comment on the proposed Index of Customers. Some commenters fully support the Index of Customers as proposed. [84] Other commenters support an Index of Customers, but suggest modifications or improvements. [85] Many commenters oppose the adoption of any Index of Customers, [86] but either suggest alternatives, or certain changes, to the proposed Index of Customers, if the Commission continues to require some type of Index. The main issues raised by the commenters are whether, and to what extent, the Commission should require an Index of Customers, given the alleged commercial sensitivity of the information and burden or cost in reporting the information, and specifically, whether receipt and delivery point information should be included in the Index.

a. *Comments In Support.* DOE, PMTG, and PG&E support the Index of Customers as proposed. They believe that the Index will contain critical baseline information about the rights of firm capacity holders necessary for markets to operate efficiently and effectively. PMTG notes it will be extremely beneficial to the capacity release market, particularly the receipt and delivery point information. PG&E supports the proposed Index of Customers as a vehicle for price discovery. It states that price discovery is critical to competition, and that LDCs need the opportunity to see the price and terms of the interstate pipelines' competing capacity on a real-time basis.

Gaslantic and the Registry also support the Index of Customers as proposed. They argue that absent an Index of Customers, and given the elimination of the ST reports, the Commission, the market, and other regulators will have no window to the workings of the short-term firm transportation market. They maintain that this information is necessary for the market to ensure that short-term firm transportation transactions do not receive an unfair preference over released firm service or similar requests for the same service.

The Registry states that short-term firm transportation, including gray market transactions and interruptible transportation markets, will be monitored through cross-correlating information contained in the proposed Index of Customers, Form Nos. 2, 2A, and 11, as well as the discount rate reports. The Registry argues that the point level MDQ information is crucial to the proper formation and functioning of the secondary market in capacity rights, a more efficient regulatory process, and a more effective day-to-day operating environment. The Registry states that data on points rights is essential for determining path-rights, segmentability, and relative flexibility among shippers, *i.e.,* quantity of receipt and delivery point rights as compared to mainline rights. Absent the Index, the Registry argues that no electronically processible means exist to determine who to contact other than the pipeline, or what total amount of firm rights might be available. Without point rights information as a baseline, the Registry believes that the market is bereft of exactly the data which is needed to

[80] The Commission is using the term ''Index of Customers'' rather than ''Index of Purchasers,'' to reflect the use of that term in Docket No. RM95–3–000, revising part 154. ''Index of Customers'' more accurately captures the nature of the current natural gas market.

[81] Standards For Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, Order No. 563, 59 FR 516 (Jan. 5, 1994), III FERC Stats. & Regs. Preambles ¶ 30,988 (Dec. 23, 1993), order on reh'g, Order No. 563–A, 59 FR 23624 (May 6, 1994), III FERC Stats. & Regs. Preambles ¶ 30,994 (May 2, 1994), *reh'g denied*, Order No. 563–B, 68 FERC ¶ 61,002 (1994).

[82] Electronic Data Interchange (EDI) is a means by which computers exchange information over communication lines using standardized formats. For example, the capacity release data posted on a pipeline's electronic bulletin board is also available in downloadable files that conform to the standards for EDI promulgated by the American National Standards Institute (ANSI) Accredited Standards Committee (ASC).

[83] These parties contended that the provision of such information would be burdensome and might disclose information that would place firm shippers at a competitive disadvantage with respect to future gas purchase decisions. See Order No. 636–A, III FERC Stats. & Regs. Preambles at 31,047–48.

[84] Those commenters are: DOE, PMTG, PG&E, Registry, and Gaslantic.

[85] Those commenters are APGA, NI-Gas, and Texas Gas.

[86] Those commenters are: ANR/CIG, AGA, Consumers Power, INGAA, El Paso, CNG, Columbia, Columbia Distribution, Panhandle, and KN.

identify transaction opportunities and pursue them.

Furthermore, according to Registry, regional, LDC, and third-party-run exchanges, and market center developers, face nearly insurmountable information integrity hurdles, which are serious barriers to the entry of competing market centers and information service providers. Registry believes these hurdles can be avoided with the availability of capacity inventory information. Moreover, the Registry notes that one of the impediments to further integration of the national pipeline network is the inability of the pipelines to coordinate the simplest cross-pipeline transactions without extensive verbal and written communication. With minor changes to the pending EDI Nomination dataset and the addition of an electronic Index of Customers which includes points and point rights, this problem largely would be solved.

Gaslantic agrees with Registry on the importance of point information. Gaslantic explains that pipelines confirm and nominate released capacity as interruptible capacity, unless scheduled from and to primary receipt and delivery points. Due to this, Gaslantic states that released capacity moving between points other than primary points is no more valuable to the replacement shipper than interruptible capacity. Similarly, Gaslantic states that the pipeline will not confirm or schedule capacity nominated from, or to, secondary or alternate points if there is no operationally available capacity at intervening interconnects. Gaslantic believes that eliminating these problems will strengthen the secondary market, and that the key is for buyers in the secondary market to be able to identify, and seek release of, specific primary capacity. It states that this is possible only if the primary capacity holders at each point are identifiable.

Gaslantic states that the Index of Customers information is available now on various reports filed with the Commission. Gaslantic argues that with the elimination of these reports (specifically, the initial and subsequent reports), the short-term firm transportation sold by a pipeline would not be reported anywhere, since it is not reported on pipelines' EBBs, through EDI, or in tariff indices of purchasers. Thus, Gaslantic urges that the Commission adopt a comprehensive Index of Customers including the point information. Gaslantic states that it and other members of the EBB Working Group agreed to the reduction of these reports only on the condition that they were replaced with a comprehensive electronic Index of Customers that would contain the essential point rights information now contained in the paper reports.

b. *Comments In Opposition.* Certain commenters, however, oppose the adoption of the proposed Index of Customers. Generally, they argue that the data the Commission wishes to be disclosed is commercially sensitive, would be burdensome and costly to provide, and would result in delays in the implementation of other higher priority electronic data items. Opposing comments also question the necessity of the data for efficient operation of the capacity release market.

Consumers Power, ANR/CIG, and Panhandle argue that the information proposed as a part of the electronic Index of Customers is commercially sensitive and potentially damaging. According to ANR/CIG, by mandating open access to pipeline transportation services, and the unbundling of pipeline services, the Commission has introduced competition into natural gas markets. They argue that the Commission's regulations provide the pipelines' competitors with a wealth of information about the pipelines' business arrangements that these competitors can use to target pipeline customers and offer them deals that undercut those offered by the pipeline. ANR/CIG stress that pipelines do not have equivalent information on these competitors. They assert that the proposed regulations require the filing of information not previously required, and require that information be filed publicly, without adequate protection for non-public disclosure of commercially sensitive information.

NI-Gas, Consumers Power, and Texas Gas argue that receipt and delivery point information should not be included in the Index of Customers because it is commercially sensitive data. NI-Gas states that knowledge of primary receipt points will allow parties to identify commercially sensitive information about the sources of a shipper's supply. Consumers Power argues that the release of such information would result in competitive detriment to pipelines, and that such detriment is not outweighed by the Commission's stated reasons for the Index.

Texas Gas believes that some customers might object to the inclusion of the information, feeling that the increased accessibility to this information that posting on the EBB would provide may put them at a competitive disadvantage with certain suppliers. If the Commission insists on point data, Texas Gas argues it should be limited to receipt and delivery points where the shipper has reserved capacity on a primary basis.

Panhandle, Columbia, Columbia Distribution, AGA, and El Paso object to the Index of Customers as burdensome. They argue that the implementation and maintenance of the Index of Customers will require significant financial commitments both in terms of human resources and computer costs. AGA points to the significant costs the pipelines would incur in changing their existing EBB computer screens and formats. AGA also argues the Commission's policy that data available through EDI datasets must also be available on the EBB will increase costs. AGA believes that it is questionable whether the benefits outweigh the costs.

AGA is further concerned that the industry will be applying its resources to create an index for a capacity release market that is still evolving and may change significantly over the next several years. Columbia concurs, stating it is premature to impose significant information system burdens on pipelines until the capacity release program has been reviewed and modified. It adds that many of the proposed elements are superfluous to the purpose of providing a downloadable listing of customers with firm capacity that could be releasable.

El Paso, NI-Gas, and Columbia specifically oppose the provision of receipt and delivery point data on the basis of the burden it imposes on pipelines. El Paso argues that providing MDQ by receipt and delivery point will be burdensome because this information is not always readily available. NI-Gas asserts that receipt points change far more often than delivery points, placing a heavier burden on the pipeline.

Columbia quantifies the monthly burden of maintaining the Index of Customers as approximately 16 hours, if receipt point MDQ, delivery point MDQ, and conjunctive restrictions are required. If they are not required, Columbia estimates it will take only four hours per month to maintain. Thus, Columbia proposes that the Commission require contract quantity and rate schedule information in the aggregate. It states that aggregate data will provide the Commission with all necessary information for analyzing the capacity held on pipelines. Columbia believes that the choice to disclose the contract specific data requested in the proposed Index of Customers should rest with the capacity holder.

AGA also challenges the Commission's assertion the information is necessary to facilitate the capacity

release market. AGA argues that such need is questionable since shippers are already under substantial economic pressure to release capacity. INGAA, too, argues that requiring pipelines to post underlying contract information is not only burdensome, but is simply unnecessary for the industry to carry on capacity trading.

INGAA argues that information on capacity for the market is already available, and that the Commission can obtain pertinent information on contracts either by requiring pipelines to file an index in their tariffs, or via a less extensive electronic index.

Similarly, Panhandle asserts that data requirements in the proposed rule are currently being provided as part of pipeline capacity release systems and thus to provide this information on all EBBs as part of the index would be duplicative in many instances. KN agrees.

Texas Gas and AGA argue that requiring information on receipt and delivery points to be included in an Index of Customers is unnecessary. Texas Gas explains that with the implementation of flexible receipt and delivery point authority under Order No. 636, information concerning specific receipt and delivery points is not as meaningful or significant as it was when the regulations requiring the reporting of transportation transactions were first implemented. Texas Gas states that many pipelines already maintain updated information on their EBBs concerning their ''master receipt point lists,'' so that including such information in the Index of Customers would be unnecessary. El Paso, too, notes that receipt and delivery information is already available in the Operationally Available Capacity section of each pipeline's EBB.

AGA states that the Commission did not establish in the NOPR a relevant need for this information. Like Texas Gas, AGA, also, believes that the creation of flexible receipt and delivery points for all Part 284 transportation service greatly decreases the need to know ownership of capacity at a particular point.

Furthermore, adoption of the index of customers, according to the EBB Working Group, ANR/CIG, AGA, Consumers Power, and INGAA, will result in delays in implementation of other higher priority electronic communication data items. ANR/CIG and the EBB Working Group point out the EBB Working Group has identified eight higher priority natural gas transactions for development and implementation. INGAA and AGA question the value of the Index, citing a survey of 55 companies by the EBB Working Group, showing the index of purchasers as the lowest priority item in a list of 26 items to be standardized. [87] INGAA and KN also note that the EBB Working Group was unable to reach consensus on the need for an Index of Customers. While supporting the concept of an Index of Customers, NI-Gas, also, questions whether this item should be a priority, given the other demands on pipeline programming abilities.

As an alternative to establishing an Index of Customers, AGA and Consumers Power believe the Commission should update the Index of Purchasers contained in existing section 154.41. AGA supports an Index of Purchasers that includes an alphabetical list of all firm transporters under the pipeline's tariff, the applicable rate schedules, and the maximum contract quantity (summed by rate schedule, if appropriate). Consumers Power adds the contract start date and end date to AGA's list. As is now the case, AGA proposes that the revised Index of Purchasers be included in the pipelines' tariffs. It states that since these tariffs are currently available from the Commission in electronic format, interested parties would be able to obtain the Index in electronic format directly from the Commission. ANR/CIG maintain that the data required in the Index of Customers can be provided to the Commission during a rate case, if necessary.

INGAA argues that instead of imposing a mandatory requirement that pipelines post contract information on an electronic Index of Customers, the Commission should instead allow the market to develop the information it needs on its own. It states that the capacity release market has experienced rapid and widespread growth, and that a number of third-party information reporting systems have been developed, without the existence of a mandatory pipeline electronic contract reporting system.

Those commenters opposing the proposed Index of Customers suggest modifications if the Commission adheres to the position an index is necessary. Some commenters make broad-based suggestions. Panhandle recommends that the same customer information rules apply to all participants to the extent practicable, so that one competitor class will not be afforded an arbitrary advantage over another by the disclosure of information that is not required to be publicly disclosed for regulatory purposes. KN suggests the information required on an electronic Index of Customers be limited to data useful to the industry.

Other commenters opposed to the Index of Customers make specific recommendations regarding the content of an Index if one must be imposed. Columbia asserts the Index should be limited to the basic information required to identify shippers that have releasable capacity, the customer name, maximum contract quantity, and rate schedule. INGAA urges the Commission to reduce the amount of information to be included in the Index of Customers to the shipper's name, rate schedule under which service is performed, and the effective date of the contract. To that, Panhandle would add the execution date of the contract. However, it opposes public disclosure of the term of the contract as commercially sensitive. ANR/CIG, on the other hand, would add the termination date of the contract to the list. El Paso supports the more limited Index of Customers discussed by the Commission in Order No. 563–A, and noted *supra.*

c. *Miscellaneous Comments.* Both those commenters supporting and opposing the concept of an index of customers suggest various minor modifications to the proposed electronic Index of Customers.

To make the index more useful, DOE asserts that each customer's name should be accompanied by a standardized I.D. number for ease of identification. Similarly, the Industrials want to be able to correlate the information reported in Statement G with the information reported on the Index of Customers. Therefore, they urge the Commission to require consistent reporting of customer names between Statement G and the index of customers and the reporting of contract numbers on both. In addition, DOE suggests that receipt and delivery point information be accompanied by a standardized identification number (PI–GRID) such as the location number used in EDI datasets.

While supporting the proposed Index of Customers, APGA suggests two modifications. APGA wants a pipeline to file an updated copy of the Index of Customers on paper when it files a general rate case. Further, APGA would like the Commission to consider making the Index of Customers available through its Central Issuance Posting System.

Freeport seeks to be excluded from the requirement to establish an EBB to disseminate the Index of Customers.

[87] The 55 companies surveyed include pipelines, LDCs, producers, marketers, end-users, and information services providers. AGA attaches to its comments the survey results showing this ranking of standardization priorities.

Freeport states that the Commission expressly exempted it from having to implement an EBB during its restructuring proceedings. It argues that the reasons supporting that decision continue to apply here. Freeport asserts this new regulation should not apply to any interstate pipeline exempted from the Commission's EBB regulations under Order No. 636, or whose throughput during the past twelve months has been zero.

3. Commission Ruling

The proposal to establish an electronic Index of Customers has been a highly contentious issue throughout both the EBB standardization proceeding and this rulemaking proceeding. In the NOPR, we proposed an extensive Index of Customers. In response, proponents of the proposed Index argue that the data included in the Index of Customers, particularly the receipt and delivery point data, is crucial for the efficient operation of the capacity release market; it will ease the integration of the national pipeline network by simplifying cross-pipeline transactions; it provides solutions to information integrity hurdles for exchanges and market center developers; and it will provide a window on short-term firm transactions. Opponents of the proposed Index argue just as strenuously that the data will be burdensome and costly to provide; it is commercially sensitive; it identifies sensitive data about a shipper's supply; it is duplicative since it is supplied on the pipeline's EBB; and it may not always be readily available.

In keeping with the primary goal of this rulemaking proceeding to eliminate unnecessary regulations, and in light of the numerous complaints in the comments that much of the information is commercially sensitive, and that its disclosure would be harmful and burdensome, the Commission has reassessed its regulatory need for the information included in the proposed Index of Customers. We have attempted to distinguish between data that is absolutely necessary for the Commission's regulation of the industry, and data that may not be necessary for review purposes. The amount and type of information included in the proposed Index extends beyond that which the Commission needs to receive from all pipelines on a regular basis to regulate the natural gas industry today. For the Commission's purposes, only a list of a pipeline's firm shippers, the rate schedule numbers for the services for which the shippers are contracting, the effective and expiration dates of the contracts, and maximum daily contract quantities are necessary.

Several commenters have argued that the contract expiration date and contract quantity should not be included in the Index. We believe that this information is necessary for our regulatory purposes. The information included in the Index being adopted represents fundamental data about the natural gas industry—namely, how much of the pipeline's capacity shippers have under firm contract. This information is basic to the Commission's understanding of events taking place in the industry. With this information, the Commission will remain apprised of, for example, trends in the industry, the willingness of shippers to hold firm capacity, the average length of time capacity remains under contract, and the proportion of capacity rolling over under evergreen provisions. Pipelines are beginning to deal with complex issues related to shippers' contracts coming up for renewal in the post-restructuring period.[88] The lack of easily accessible data regarding customers' contract levels and contract terms could hamper the Commission's ability to assess the impact of this phenomenon on the industry. The Index will provide key data for this purpose.

Those commenters in favor of the proposed Index of Customers have not persuaded us that the Commission should require the pipelines to maintain a comprehensive list of capacity rights by receipt and delivery points to aid the secondary capacity market, or to assist third-party-run exchanges and market center developers. Their comments do not make clear what practical effect providing the proposed additional information would have on the secondary market. For example, there has been no evidence presented that the inefficiencies in the capacity release market would be removed if detailed information on the location of capacity rights were made public. However, AGA's comments stating that the capacity holders have incentives to market idle capacity are persuasive. Moreover, the Commission can require more detailed information on capacity rights to be produced in particular proceedings, as necessary.

The Registry supports the proposed Index as a window on short-term firm transportation. While the Index adopted in this rule will provide information on short-term firm transportation, not all short-term firm contracts entered into on the pipeline's system will be reported, due to the decrease in the frequency of filing. However, the Index adopted will provide a snapshot profile of the pipeline's contracts on the first day of each quarter. This will enable the industry to follow trends in the proportion of capacity held under short-term firm contracts versus the proportion of capacity held under longer-term contracts.

With respect to cross-pipeline issues, the industry is currently grappling with the best way to resolve these issues. Therefore, the Commission believes that it is premature to adopt a reporting standard to aid in resolution of such issues. Rather, the industry should be afforded time to attempt to reach a resolution.

Therefore, while the Commission is retaining the requirement that pipelines file an electronic Index of Customers, the Commission is adopting only a limited Index of Customers. The Index will contain for all firm customers under contract as of the first day of the calendar quarter,[89] the full legal name of the shipper, the rate schedule number for which service is contracted, the contract effective and expiration dates, and the contract quantities. The Commission is requiring the full legal name of the customer to be reported to help to ensure that the same customer name is reported regardless of the filing or form in which it is reported. We are also requiring that the rate schedule number be reported in the same format as it appears in other reports and filings with the Commission.

The Index must be posted on the pipeline's EBB, and filed electronically, once each calendar quarter. That is, on the first of each calendar quarter, the Index must be restated and reposted on the EBB to include all firm contracts in effect on that date, and filed with the Commission in electronic form. A paper copy of the Index is not required to be filed. When a pipeline has implemented the electronic Index of Customers, its obligation to provide for an Index of Customers in its tariff will cease. In addition, where a pipeline has received a waiver from establishing an EBB, it does not have to establish an EBB in order to implement an Index of Customers. In that case, pipelines, such as Freeport, must comply with the reporting requirements of section 154.111 instead.

Several commenters argue for the information included in the Index to be filed in a rate case, or as part of the tariff, instead of in a separate Index of

[88] For example, Transwestern Pipeline Co. recently filed a settlement in Docket No. RP95–271–000 to deal with the turn back of significant amounts of capacity by a key customer.

[89] It is not necessary to require the posting of interruptible contracts in the Index of Customers.

Customers. Filing the data with the rate case would not be timely enough for the Commission's review purposes. It is true that filing the data as part of the tariff, either by updating section 154.41 or establishing a new index, would make it publicly available in an electronic format. However, in the past, the Commission has had difficulty extracting the Index of Customer data from the tariff for use in spreadsheets and databases due to the inconsistent way the data is presented, even from page to page within a single tariff. To make the data most useful, we are requiring that it be filed in a consistent format by all pipelines. The index will be maintained on each pipeline's EBB in a delimited ASCII format in a file which can be downloaded from the EBB.

Similarly, APGA proposed that the Commission require pipelines to file an updated copy of the Index of Customers on paper when it files a general rate case. We will not adopt APGA's suggestion. The Index will now be updated quarterly, and it should be fairly simple for a paper copy of the index to be generated from the electronic data. We will, however, adopt APGA's proposal to make the Index of Customers available through the Commission's bulletin board system.

A number of commenters express concern about the delay that providing an electronic Index of Customers may cause in implementing electronic data interchange (EDI) services which the industry has identified as being higher priority. Others are concerned with the costs involved. Still others, DOE for instance, support using EDI to transmit the Index. Since the Commission is proposing a substantial reduction in the data included in the Index of Customers, transmittal through EDI will not be necessary. As stated, the index will be available on the pipeline's EBB. Therefore, implementation of the index should cause no delay in the implementation of EDI services.

As discussed in the electronic format section of this rule, Section IX, the industry will be working with the Commission staff to develop the data sets and other procedures necessary to provide for downloading of the Index of Customers on the EBB. Instructions for reporting the data elements listed in the regulations will need to be finalized. For example, appropriate file names and the presentation of dates still need to be determined.

Thus, the final implementation of the Index of Customers by the industry and the Commission Staff will not occur until some time after the effective date of this rule. In the NOPR, the Commission proposed to require the pipelines to initially comply with the Index of Customers requirement within 180 days of the effective date of the final rule, in order to allow ample time for the industry and Staff to conclude their conferences, and for the pipelines to implement the resulting electronic elements of the Index of Customers. However, we will remove the requirement that the index be completed within 180 days of the effective date of this rule. The Commission would like the data to be provided as quickly as possible, but recognizes the competing demands on the pipelines' resources. We will require the pipelines to work out a flexible implementation schedule with staff, and to report back to the Commission for approval.

In the intervening period between the effective date of the rule and the pipelines' implementation of the electronic Index of Customers under sections 284.106 and 284.223, pipelines providing transportation service under sections 284.106 or 284.223 will be required to comply with the Index of Customer requirements applicable to transportation and sales under Part 157, as set forth in sections 154.111(b) and (c).

F. Removal of Obsolete Transitional Requirements

Several sections in Part 284 were established by either Order No. 436 or Order No. 636 as interim measures to implement those orders, or to bridge the transition between the two orders. Some of these provisions contained action deadlines that have long since passed. The Commission is removing the following sections because they have become outdated due to subsequent events, and the current state of the regulatory environment.

Section 284.7(b) provides for interim rates for part 284 transactions to be charged until new transportation rates are filed under section 284.7, which had to have been filed by July 1, 1986. This section has become obsolete, and therefore is no longer necessary.

Section 284.10 provides an interim program for bundled sales customers to convert to firm transportation services. Since Order No. 636 has unbundled sales service, so that sales and transportation services are now separate services, there is no need for customers to convert from one to the other. This section is no longer applicable to the current regulatory framework.

Section 284.11 sets forth environmental compliance requirements for any activity involving the construction of, or abandonment with removal of, certain facilities. Paragraph (d)(1) of section 284.11 requires the filing of a one-time report, by December 9, 1992, for any such activity costing more than $6.2 million that was commenced between July 14, 1992 and November 9, 1992. This provision is now meaningless because it required a one-time report, and the date for filing the report has passed. Thus, paragraph (d)(1) is deleted from the section.

INGAA recommends the Commission change the filing deadline for the capacity report required under section 284.12 to May 1 to avoid conflict with financial reports due in April. Freeport requests modification of this provision in order not to require a report for any year whenever there has been no change from the last such report filed.

The Commission will not change the deadline for filing the capacity report under section 284.12. The arguments made by INGAA for moving the deadline to May 1 are not persuasive. The filing date for the financial reports and the report due under section 284.12 have been in close proximity for some time. The respondents have been able to meet the April filing deadlines in the past, and there is no reason to assume they cannot meet the filing deadlines in the future.

Nor will the Commission modify section 284.12 so that no capacity report is required when the capacity report remains the same from the last report filed. Rather than revise our regulations to provide for a situation that is likely to be the exception and not the rule, pipelines may, as always, seek waivers from this provision in these instances.

INGAA and Texas Gas recommend the Commission remove the recordkeeping requirement in section 284.13. This section requires that within 30 days after commencing any subpart B or G transportation arrangement, the pipeline keep a log that includes the date of the request, the name of the person requesting transportation, and the volume of gas to be transported. INGAA and Texas Gas state that this information was based on the first-come, first-served capacity allocation procedure begun under Order No. 436, and is no longer relevant for today's capacity allocation method based on price. They further state that pipelines that use methods other than price to allocate capacity must comply with the capacity allocation requirements of Order No. 566. The Commission agrees with INGAA and Texas Gas. This information was primarily used to establish queues for the first-come, first-served allocation scheme under Order No. 436, and that allocation procedure was changed by Order Nos. 636 and 566. In addition, this recordkeeping

requirement largely duplicates the log keeping requirement for allocating capacity contained in section 250.16(c). Therefore, section 284.13 is eliminated from the regulations.

Section 284.14—Provisions governing pipeline restructuring—was designed to implement the restructuring of pipelines' services under Order No. 636, and contains, among other things, the requirements for the compliance filings pipelines were required to make, and for the associated restructuring proceedings. The restructuring process is now complete; therefore this section is no longer necessary. Any pipeline who proposes to offer transportation service under subpart B or G of part 284 in the future will simply file to comply with the requirements of this part and Order No. 636.

Sections 284.105 and 284.125, applicable to section 311 interstate and intrastate transportation, respectively, provided that transportation arrangements existing prior to Order No. 436 could continue in effect, under the same terms and conditions existing prior to Order No. 436 (with some exception), after the issuance of Order No. 436, for an interim period that would end, at the latest, on October 9, 1987. Thus, these transitional provisions only had effect for an interim period that is now over. Accordingly, we are eliminating sections 284.105 and 284.125.

Section 284.122 governs transportation by intrastate pipelines under Section 311(a)(2) of the NGPA. The Commission is deleting paragraph (e) of section 284.122, which sets a January 31, 1992 expiration date for the authorization provided under that section for certain transportation. This transitional provision is no longer required. Similarly, section 284.123, governing the rates and charges for this section 311 transportation service, contains in subparagraph (e)(2) a transitional filing requirement deadline of February 1, 1985 for certain pre-existing transportation arrangements; thus, the Commission will remove section 284.123(e)(2).

The Commission will also remove sections 284.223(e) (Transitional rule for transportation arrangements) and 284.223(f) (governing the conversion of transportation service under NGPA section 311 to NGA section 7(c) blanket transportation service). Section 284.223 authorizes an interstate pipeline to transport gas under a section 7 blanket certificate of public convenience and necessity for any shipper for any end use by that shipper or any other person. Section 284.223(e) was established as a transitional provision to permit transportation arrangements authorized under section 157.209(a)(1), which commenced before October 9, 1985, to qualify as transportation under section 284.223. Section 157.209(a)(1) permitted section 7 certificate holders under section 157.201 to transport natural gas only on behalf of a high-priority end user for a high-priority end use. Section 157.209(a)(1) was replaced by section 284.223, and was removed from the regulations effective November 18, 1985.[90] Accordingly, the transitional rule contained section 284.223(e) applicable to transportation under section 157.209 is obsolete, and no longer necessary. Similarly, Section 284.223(f) is an interim measure that was designed to implement the addition of blanket transportation services. This section requires that all conversions be made prior to November 1, 1990. Consequently, sections 284.223(f) is also obsolete, and no longer necessary.

Section 284.227 grants a certificate for intrastate pipelines in the coastal states for the transportation of federal offshore gas for use in that state. Paragraph (d) requires the intrastate pipeline converting from section 311 transportation service to service under this section to file a conversion report. This conversion report was a transitional requirement, and references the initial and subsequent reports that are being deleted by this rule. Accordingly, we are eliminating section 284.227(d).

Section 284.402 of Subpart L, setting forth the authorization for blanket marketing certificates, provides in paragraph (c)(1) that the authorization for an ''affiliated marketer'' with respect to transactions involving affiliated pipelines becomes effective either when the affiliated pipeline receives its blanket sales certificate under Subpart J, a transportation-only affiliated pipeline's Order No. 636 compliance filing is approved, or when the Commission terminates the affiliated pipeline's RS proceeding. The Commission will delete the latter two conditions, since those occurrences have passed.

G. Other Revisions

The Commission is deleting most of Subpart D, governing certain sales under section 311 of the NGPA by intrastate pipelines. In Order No. 547,[91] the Commission granted any person who is not an interstate pipeline a blanket certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the certificate holder to make sales for resale at negotiated rates in interstate commerce of any category of gas that is subject to the Commission's Natural Gas Act jurisdiction. The certificate of limited jurisdiction does not subject the certificate holder to any other regulation under the Natural Gas Act by virtue of transactions under the certificate. Although the blanket certificate eliminates the need for Subpart D, the Commission will retain the basic authorization and rate provisions under Subpart D in sections 284.141, 284.142, and 284.144 for those persons who may wish to make sales under the NGPA instead of the blanket certificate under the Natural Gas Act. However, in recognition that an intrastate pipeline can also sell natural gas in an unbundled transaction under the blanket certificate, at negotiated rates, the Commission will retain a simplified version of section 284.144 governing rates and charges as part of the authorization provision set forth in section 284.142. The new rate rule within section 284.142, simplifies the current maximum sales rate rule to permit the gas commodity price negotiated in the contract, plus a fair and equitable transportation rate.

The Commission is deleting Subpart E in its entirety, governing the assignment by any intrastate pipeline to any interstate pipeline or local distribution company of its contractual right to receive surplus natural gas at any first sale, without prior Commission approval. The Natural Gas Wellhead Decontrol Act of 1989 amended the definition of ''surplus natural gas'' in section 312 of the NGPA to mean ''any natural gas.'' Moreover, the only filings under Subpart E were made in 1979. Therefore, Subpart E is no longer necessary.

The Commission is removing section 284.222, regarding transportation by interstate pipelines on behalf of other interstate pipelines. Since the Commission deleted the prior notice requirement in Order No. 537,[92] which applied to transportation by interstate pipelines on behalf of shippers other than interstate pipelines under section 284.223, but did not apply to transactions under section 284.222, there is no longer any reason to distinguish between transportation under sections 284.222 and 284.223. Thus, the Commission will delete section 284.222, and apply section 284.223 to transportation by interstate

[90] See 50 FR 42408 (October 18, 1995).

[91] 61 FERC ¶ 61,281 (1992).

[92] Revisions to Regulations Governing Transportation under Section 311 of the Natural Gas Policy Act of 1978 and Blanket Transportation Certificates, 56 FERC ¶ 61,415 (1991).

pipelines on behalf of other interstate pipelines, as well as transportation by interstate pipelines on behalf of non-interstate pipeline shippers. Therefore, the Commission is also modifying the title of section 284.223 to read ''Transportation by interstate pipelines on behalf of shippers.''

The Commission is removing sections 284.225 and 284.226 concerning the transportation of gas released under the good faith negotiation procedures. Order No. 567,[93] issued July 28, 1994, in Docket No. RM94–18–000, removed the good faith negotiation procedures under Section 270.201 as a result of the repeal of maximum lawful ceiling prices under the NGPA.

Section 284.266 concerns the rates and charges for emergency transportation and sales service by interstate pipelines. Paragraph (b) of section 284.266 governs the determination of the emergency sales rate, and refers to the methodology a pipeline uses in designing its sales rates and its current purchased gas costs. This paragraph is no longer relevant in light of the changes brought about by Order No. 636. Order No. 636 unbundled transportation and sales services. All pipelines wishing to make unbundled sales, and holding a blanket certificate under subparts B or G of Part 284, were granted a blanket certificate authorizing firm and interruptible sales service with pre-granted abandonment.[94] The rate for unbundled sales service is determined by the market.[95] Similarly, the discussion in paragraph (c) of section 284.266, regarding the treatment of revenues, harks back to the time when transportation was the exception rather than the rule. Pipelines primarily sold natural gas bundled with transportation, calculating the price for the natural gas in their purchased gas adjustments. Since pipelines now offer transportation and sales services separately, with sales service provided at market-based prices, the crediting mechanism described in paragraph (c) has become an anachronism. Therefore, sections 284.266(b) and (c) are removed.

In addition, the Commission is making a number of more minor, miscellaneous changes, such as deleting references to dates that have passed, updating the Commission's address, and changing provisions to conform with other changes that are being made in this rule. These modifications are set forth below.

Section 284.2(b), concerning interest on refunds, contains a reference to section 154.102(c) for the interest formula. This reference must be changed to indicate the new provision in Part 154 where the interest formula now appears (section 154.501(d)).

Section 284.4, specifying that all reports in Part 284 must indicate quantities of gas in MMBtu's, refers to § 270.102, which has been removed, for the definition of MMBtu. The definition of MMBtu previously found at § 270.102 must be incorporated in this section. The Commission is still requiring the reporting of quantities in MMBtu's, and the definition has not been changed. Therefore, this change does not constitute a modification from past requirements.

The Commission is making a grammatical revision in section 284.8(b)(4)(iii).

In section 284.102(e), governing the certifications interstate pipelines must obtain from shippers to be able to transport gas on behalf of an intrastate pipeline or local distribution company under section 311, the Commission is deleting reference to a January 3, 1992 deadline for tariff revisions establishing the certification requirement.

The Commission is modifying paragraph (b)(1) of section 284.221, setting forth the general rules regarding the transportation by interstate pipelines on behalf of others under section 7(c) blanket certificates, to delete reference to an October 31, 1989 date no longer relevant, and a fee no longer collected.

In sections 284.6(b) and 284.8(b)(5)(i), we are deleting reference to the specific street addresses of the Commission, many of which are former addresses, and replacing them with only the particular internal office name, the Commission's name, and ''Washington, D.C. 20426.''

In many provisions, the Commission is deleting reference to sections that have been eliminated by this rule, or by other prior rules. For example, in section 284.221(f)(2), we are eliminating reference to section 284.222, which is removed by this rule. Other conforming changes are set forth below.

In light of the proposed elimination of Subpart E, the Commission is removing all references in section 284.224, governing certain transportation, sales and assignments by local distribution companies, to Subpart E, as well as to the word ''assignments'' in the section provisions and in the section heading. The Commission is retaining the blanket certificate and rate election procedures in section 284.224 that allow local distribution companies served by an interstate pipeline or Hinshaw pipeline to engage in sales and transportation of natural gas to the same extent as intrastate pipelines are authorized to engage in such activities under subparts C and D. The Commission is also removing the reference to assignment in section 284.3, which sets forth the NGA jurisdiction.

Section 284.224(e)(5)(ii) requires the blanket certificate holder to file a copy of all contracts as a part of the initial full report under sections 284.126 and 284.148. Since the Commission is deleting in subparts C and D the requirement to file initial full reports, the Commission is also deleting section 284.224(e)(5)(ii).

Furthermore, since the Commission is deleting the initial reports required in subparts C and D, the extension report in subpart D, and entire subpart E, which also required an initial report, the Commission is deleting section 381.404, which establishes the fee for initial or extension reports and refers to the removed sections.

Section 284.269, concerning intrastate pipeline and LDC emergency sales rates, refers to removed section 284.144 for the calculation of the emergency sales rates. We are revising this section to refer, instead, to section 284.142.

As a conforming change to our action in eliminating transitional provision 284.14, the Commission is deleting references to sections 284.14 in, and making modifications to, the following sections: 284.221(d), 284.284(b), 284.286(e), 284.287.

Section 2.104(a), governing the procedures for the passthrough of pipeline take-or-pay buyout and buydown costs, refers to the grandfather provisions in sections 284.105 and 284.223. We are eliminating the reference to these sections, since we have deleted section 284.105 and the transitional provisions in paragraphs (e) and (f) of section 284.223.

In Part 381, governing fees, section 381.404, concerning the fee for initial or extension reports for Title III transactions, references reports in sections 284.148(e), 284.165(d), and 284.126 that have been deleted. Therefore, section 381.404 is deleted, also.

The Commission is revising section 385.2011, concerning electronic filing requirements, to update the reference to part 154 and to the Commission's address, and add the discount rate report as an electronic filing requirement.

VIII. Part 157

In keeping with the goals of the NOPR, El Paso suggests that the Drilling Gas Report required by section 157.53(b) of the Commission's regulations can be

[93] 68 FERC ¶ 61,135 (1994).

[94] Order No. 636 at 30,437–38.

[95] *Id.*

eliminated, especially now that pipelines are primarily transporters of natural gas. Section 157.53 exempts from the certificate requirements of section 7(c) of the NGA, the construction and operation of facilities necessary to render direct natural gas service for use in the drilling of gas or oil wells, or for use in the testing and purging of new natural gas pipeline facilities, as long as a drilling gas report describing such operations is filed annually.

The Commission agrees with El Paso, in part. Facilities necessary to render direct natural gas service for use in the drilling of gas or oil wells may be constructed and operated under other procedures short of a full certificate filing. For example, since pipelines generally have a reduced merchant role, many of the facilities of this type will be built on behalf of natural gas producers. These facilities would be eligible for a blanket certificate under subpart F of section 157. References to these transactions will be removed from this section. We will retain this section for facilities built to purge and test new natural gas pipeline facilities since these facilities will otherwise generally require full certificate proceedings.

IX. Electronic Filing Requirements

A. Introduction

Currently, the Commission requires pipelines to file the Form No. 2, Form No. 2–A, and Form No. 11 electronically. The pipelines file the electronic data on the following media: diskette, 9-track magnetic tape, and 18-track cartridge. The tapes and cartridges are used with the mainframe computer. However, the majority of pipelines file their data on diskette. The present filing requirements call for the data to be submitted in an ASCII flat file format.[96] A flat file is composed of data arranged in records or rows with no delimiters. Each data item is assigned a position in the row to distinguish it from other data in the row. This data structure was adopted primarily because it was well-suited for use on mainframe computers. In the NOPR, the Commission expressed the desire to adopt filing requirements which are better suited for use on a personal computer. In this rule, the Commission is requiring that the Form Nos. 2, 2A, 11, and the discount rate reports be filed both on paper and electronically. The Index of Customers will be posted on the pipelines' EBB's, and filed electronically only; no paper copy of the Index of Customers will be required.

In the NOPR, the Commission acknowledged that the changes to the regulations and forms that it was proposing in that NOPR, and in the companion NOPR in Docket No. RM95–3–000, would necessitate modifications to the electronic formats for the affected filings and forms. Thus, to ensure the widest possible input, the Commission directed its staff to convene a technical conference to obtain the participation of the industry and other users of the filed information in designing the electronic filing requirements.

On April 4, 1995, the Commission staff held the technical conference to address the electronic filing requirements associated with the proposed rules. Many issues were discussed at the conference, such as whether to require the data to be saved in files in a standard format, such as ASCII, or to allow pipelines to submit electronic data in the format of the applications software they employ;[97] whether the appropriate method for transmitting data to the Commission is via diskette, or telecommunications; whether the Commission or the pipelines should disseminate the electronic data, and how dissemination should be accomplished (*i.e.*, on diskette, or via the EBB); and the standardization of data elements.

As a result of oral comments made at the conference, and written comments submitted in this rulemaking, the Commission is able to make a number of decisions related to the electronic filing requirements in this rule. However, other issues still will need to be resolved jointly with the industry. Therefore, the Commission is directing staff to convene a further technical conference, and to work with the industry, as needed, to resolve the outstanding electronic filing issues in both this rule and the Docket No. RM95–3–000 rule. This conference is to be held as soon as possible after the issuance of these rules. The various electronic filing issues raised at the conference, and the comments on those issues, are addressed below.

B. Format For Electronic Filings

Commenters generally support a change to the current means of filing forms electronically. The Registry identifies three main forms in which data can be delivered electronically, and which allow for consistent presentation and unambiguous cross-correlation:

- Applications software, such as Lotus, which are best for financial, performance, and other one-to-one reporting subject areas;
- Comma-delimited ASCII formats, which allow for all PC-based spreadsheet and database software to import the data set forth in this format; and
- Relational data structures such as electronic data interchange (EDI),[98] which are best for one-to-many relationships and reporting areas.

INGAA notes that at the April 4 conference on electronic filings, pipelines recommended that the electronic filing format for most reports in this rulemaking should be platform independent (in other words, able to be used with any hardware), with delimited ASCII formats for numeric files, and Rich Text Format (RTF) for text. Williston Basin and Panhandle support this preference, voiced at the conference, for tab-delimited or comma-delimited ASCII files for electronic filing of numeric data fields.

Williston Basin believes that the Commission should eliminate the current flat, non-delimited ASCII submission format, because it is a time consuming and inefficient process. Williston Basin states that tab-delimited formats for numeric submissions would be more efficient, and that these formats are readily producible from all of the current generations of personal computer operating systems and applications software packages.[99]

Panhandle asserts that the number of software applications and computer platforms used by applicants, regulatory agencies, and intervenors, and the various releases of such applications used by the participants, calls for the adoption of a ''common denominator'' approach for data transfer, such as delimited ASCII, rather than a particular software application or applications. Panhandle adds that delimited ASCII formats permit columnar data fields to

[96] ASCII, or ''American Standard Code for Information Interchange,'' conveys only letters, punctuation, and certain symbols. It does not convey how the document should be formatted or what fonts to use. A delimited ASCII file is created by keypunching a series of symbols using commas, tab, or some other symbol to designate the space at the end of a word or number (thus, ''tab delimited,'' ''comma delimited,'' etc.)

[97] Applications software means proprietary software, such as Lotus, Quattro Pro, Excel, or WordPerfect.

[98] Electronic Data Interchange (EDI) is a means by which computers exchange information over communication lines using standardized formats. For example, the capacity release data posted on a pipeline's electronic bulletin board is also available in downloadable files that conform to the standards for EDI promulgated by the American National Standards Institute (ANSI) Accredited Standards Committee (ASC).

[99] Williston Basin is not opposed to submitting electronic data in the application software it uses, provided that numerical data not include formulas and links, and the native application format(s) supported by the Commission is producible from its application software.

be imported and exported into, and out of, most off-the-shelf software.

For text only files, Panhandle and Williston Basin support the RTF recommendation, which permits word files to contain text enhancements, such as underscoring. The Registry adds that text files, which can be read by word processors, are very useful for scanning text, such as direct testimony, tariffs, and descriptions. RTF can be read by AMI–PRO by Lotus, Word by Microsoft, and Wordperfect by Novell. The format retains most of the bold, indentation, tabbing, and paging formats, which can be imported into any of the three applications with a minimum effort for conversion and reformatting.

A related issue to electronic filing formats is whether the Commission should develop form-fill software to assist the pipelines to prepare the filings. In the NOPR, the Commission noted its intention to use user-friendly form-fill software. Williston Basin responded in support of a form-fill software approach to preparation of the Form No. 2, if the software package is appropriately designed and tested prior to implementation. A critical requirement for Williston Basin would be data import capabilities allowing the form-fill software to receive data from its software packages.

The companion rule in Docket No. RM95–3–000 adopts the use of tab-delimited ASCII for most numeric data, with limited use of spreadsheets for the rate case data. The Commission is adopting a tab-delimited ASCII format for the numeric data submitted electronically in this rulemaking, as well. The Commission is adopting this standard in light of the substantial support it enjoys.

The Commission is not adopting in this rule a format for the text data that is filed electronically. RTF for text data enjoys substantial support. The nature of RTF is discussed at greater length in the companion rulemaking. However, the Commission has certain concerns that we wish to have addressed before adopting RTF for text. Thus, the companion rule directs staff to establish a conference to explore further the efficacy of RTF for text data. At the conference, the participants should address alternatives to RTF, if any, and the concerns that: (1) the data be error-free when translated; (2) translation be available in the most popular word processing programs; and (3) RTF text be usable in databases.

In light of the industry's support for independence from a particular platform or software, the Commission will not prepare form-fill software for the use of the industry. The data layouts will be determined and edit specifications will be provided as a result of the conference; however, no software for form-fill, edit-checking, or printing will be provided. The industry is free to develop whatever software best meets its needs, and the filing requirements set forth by the Commission.

C. Data Requirements

The Registry recommends that the collection of information across various reports and filings encourage correlation and comparison. In particular, the Registry notes that:

- Time periods should be consistent and cross-comparable;
- Units of measurement should be consistent, and only one energy and volume unit should be employed;
- Geographic zones (i.e., county and states) should be equated to economic (i.e., rate) zones;
- Services (firm, interruptible, etc.) should be equated to rate schedules; and
- Identifiers such as DUNS numbers of customers/contract parties should be consistent.

The Registry also suggests that respondents should be required to adhere to the following standards and practices:

- Standard naming conventions, page numbering, and ordering of fields/contents of spreadsheets;
- Provision of both values-only, and formulas and values, versions of data files; and
- Provision of both an edit-enabled and a password locked, edit-protected version of each of the values-only and formulas-only files; there should be no hidden cells.[100]

The Commission wishes to encourage consistent reporting among different electronic forms and filings. Where possible, the conference participants should come to agreement on standards for reporting common data elements, such as dates. The participants must also explore at the conference what measures would be appropriate for establishing the security of the data, such as locking the file with a password, as suggested by Registry. Further, the participants must discuss certain other general issues, such as those raised by Registry, *i.e.*, file naming conventions, page numbering, ordering of fields/contents, appropriate diskette size and labelling of the diskettes. In addition, other issues common to electronic filing need to be addressed, such as, treatment of footnotes, format for dates, and what the industry considers to be text suitable for RTF. Since we are adopting a tab-delimited ASCII format for numeric files, the Commission is not requiring any of the reports subject to this final rule to be filed in a spreadsheet form. Therefore, the suggestion by Registry that a values-only version and a values and formulas version of the spreadsheet data be submitted is not an issue.

The Registry recommends adding a number of data elements to the electronic version of the forms and/or filings. The Commission is requiring that the electronic filing be a faithful representation of the data requirements set forth in the form or filing. The electronic filing requirements will not be expanded to include data not specified in the paper version of the form or enumerated in the regulations. For example, where the rate schedule number is reported, it should not be construed as also requiring the type of service to be reported, unless specifically stated in the form or regulations.

D. Submission and Dissemination of Electronic Data

With respect to the submission, or filing, of the electronic data, INGAA states that, at a minimum, pipelines would prefer to file on a diskette, but are willing to investigate communication of data through CD-ROM or telecommunications. INGAA views EDI applications for certain reports as an option on a voluntary basis, where it can be shown to be cost effective.

In contrast, Williston Basin supports the use of telecommunications medium for the submission of electronically filed data. While Williston Basin prefers telecommunications submission, if physical formats are used for submission, Williston Basin supports CD-ROM as an alternative to diskettes.

Current electronic filings are commonly submitted on diskette, as noted above. Filing on diskette continues to enjoy substantial support in the comments. Thus, the standard means of submitting data to the Commission will be by diskette. However, the Commission will also permit submission on CD-ROM.[101]

The Commission does not currently permit the filing of electronic data through telecommunications. The Commission is not yet prepared to accept data through telecommunications. Before adopting

[100] The Registry also makes certain recommendations for the electronic filing requirements for rate case data. The Commission is addressing this issue in the companion rule in Docket No. RM95–3–000.

[101] Technical specifications for CD-ROM submission will appear in the electronic filing instructions for each individual form or filing.

filing by telecommunications, the Commission would need to put the proper hardware and software in place, and work out other issues. For example, section 385.2005 requires filings with the Commission to be signed. Signatures are difficult to reproduce electronically.[102] Such issues can be addressed at the conference to be convened by staff. Therefore, the Commission will not adopt submission by telecommunications until all of the issues are resolved.

With respect to the dissemination of the electronically filed data, INGAA and Williston Basin support the goal of increased use of electronic dissemination of reported data by the Commission, and the elimination of hardcopy dissemination whenever practical. Panhandle, too, supports the industry preference that the Commission be the primary disseminator of filed information. However, Williston Basin and INGAA urge the Commission to put procedures in place to ensure the integrity of the electronic filing, and the security of any confidential data.

AGD suggests that the Commission require pipelines to post their Form No. 2 filings, (including backup information) on their EBBs. The Registry suggests that the Form No. 2 data be made available to the public in hardcopy printout of the electronic version, and in compressed files on 3.5″ 1.44 MB disks, in edit-protected mode in the comma-delimited format in which it was filed. It states that such Form No. 2 data should be available for the price of reproduction, plus a handling charge. The Registry also suggests that the diskette should contain the record layout and description, so that users can import the company-supplied data, and know how the fields correlate to the Form No. 2 data with which they are familiar. In addition, the Registry recommends that the uncompressed file names should appear on the label or sleeve wrapper of the diskette.

The Registry suggests that the market monitoring information, such as the Index of Customers and the discount rate reports, be made available to the public in the following forms:

- Via EDI formatted downloads from the pipeline's EBB or VAN, for which the pipeline has agreed to pay its portion of the charges associated with using such means of request and delivery;
- Via hard copy printout of a translated EDI file available from the Commission; and
- Via EDI formatted files on 3.5″ 1.44 MB disks in write-protected mode available from the Commission, with a batch file which prompts the user for sender and receiver IDs for the IS and GS levels which, once supplied, enables the user to translate the file with their EDI translator.

Conversely, Williston Basin states that although it may support EDI for the transmission of certain frequent filings, it believes EDI would not be a cost-effective option based on the frequency and nature of the data being submitted.

It is the Commission's intention to disseminate all electronically filed data to the extent the file size is practical for downloading. Dissemination would be accomplished through the Commission's Gas Pipeline Data bulletin board system. Files on the bulletin board system are currently compressed for faster downloading. The data layouts for each electronic filing are currently made available through this system. This practice will continue. Since the Form No. 2 will be available on the Commission's bulletin board for all companies, we will not require the pipelines to keep a copy of Form No. 2 on the pipeline's own bulletin board.

Given the reduction in the number of data elements to be submitted in the Index of Customers and the discount rate reports, the Commission does not believe EDI is necessary for transmission of the data. Further, a delimited ASCII file would be easier to manipulate for many members of the public using the Commission's bulletin board. Therefore, the Commission will not adopt EDI for the Index of Customers or discount rate data.

E. Finalization of Electronic Requirements and Procedural Considerations

Williston Basin, Panhandle, INGAA, and AGA urge the Commission to postpone finalization of electronic requirements until such time as a final order is issued, and sufficient time has been allowed beyond issuance to develop appropriate procedures, formats, and software. Panhandle notes that pipeline and commercial software developers would need time to develop, test, and place into production, the systems that generate the reports required by the rule. In addition, Panhandle states that it will be necessary to map data points for the new reporting requirements. Panhandle is concerned that sufficient time be allotted for the development, testing, and implementation of the applications that will be used for generating electronic versions of filed reports. In the same vein, AGA urges the Commission to consider designing the software to operate on local area networks.

The Registry recommends that FERC set additional schedules and a procedural process, including another informal technical conference, to handle the technical aspects of data layout, content, and format. The Registry suggests that, at the conference, the Commission should establish three working groups, their chairs, their agendas, and their individual jurisdiction. The Registry proposes a rate case working group dealing with spreadsheets, file naming, formats, and data protection; a Form No. 2 working group dealing with data field naming and record layout for the comma-delimited filing format; and a EDI, market monitoring, and market confidence working group dealing with EDI formats associated with the Index of Customers and discount reports. The Registry further proposes a detailed procedural process and timetable for resolution of the issues.

The Registry also urges the Commission to adopt a flexible implementation and compliance schedule for the Index of Customers. Specifically, it proposes that the Commission should set beginning and end dates for compliance with the electronic index (for example six months), and that the pipelines submit first, second, and third choices for the month in which they wish to complete implementation. The Commission would then select a schedule of compliance for the pipelines based on these choices, using a first-come, first-served principle.

In view of the need for sufficient time to implement the new requirements, INGAA suggests the changes to Form Nos. 2, 2–A, and 11 should be effective on the January 1st that falls at least 180 days after publication of the final rule in the **Federal Register**.

Contrary to what was stated in the NOPR, this rule does not finalize all of the electronic filing requirements. As desired by the commenters, the Commission is allowing adequate time subsequent to the issuance of this rule for the technical aspects of the electronic filing requirements to be finalized. As we have stated, we are convening another joint informal technical conference in the two companion rulemaking proceedings for this purpose. The Commission staff will convene the conference as soon as

[102] In the past, the Commission received purchased gas adjustment (PGA) schedules in electronic form only. The diskette, tape, or tape cartridge containing the PGA schedules was accompanied by a letter of transmittal. The signature on the letter of transmittal met the requirements of section 385.2005.

possible after the issuance of the rules. The procedures to be subsequently followed will be discussed, and if possible, established, at that conference.

The Commission discusses the appropriate filing date for the revised Form No. 2 elsewhere in this rule. The revised Form No. 2 cannot be filed electronically until all of the electronic filing instructions have been finalized. We are not requiring that pipelines file the revised Form Nos. 2 and 2–A, either in paper or electronically, until April 1997. Thus, there should be more than adequate time to establish and put into place the new electronic filing requirements prior to the filing of the revised Form Nos. 2 and 2–A. The Form Nos. 2 and 2–A for the calendar year 1995, filed in 1996, must be filed under the old filing requirements, including the old electronic filing requirements.

Given the reduction in the scope of the Form No. 11 and the Index of Customers, and the elimination of the changes to the discount rate report, the Commission does not anticipate a lengthy delay in implementing the electronic filing requirements for those reports. We anticipate that the electronic filing requirements will be finalized prior to the first filing of the Form No. 11. If not, the pipeline must file only the paper copy of the revised Form No. 11. In any event, a final schedule for the implementation of the electronic filing requirements must be worked out among the participants of the conference.

X. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[103] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[104] The action taken here is procedural in nature and therefore falls within the categorical exclusions provided in the Commission's regulations.[105] Therefore, neither an environmental impact statement, nor an environmental assessment is necessary, and will not be prepared in this rulemaking.

XI. Reporting Flexibility Certification

The Regulatory Flexibility Act (RFA) [106] generally requires the Commission to describe the impact that a final rule will have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. An analysis is not required if a final rule will not have such an impact.[107] Most gas companies to whom the final rule applies do not fall within the definition of a ''small entity.'' [108] Consequently, pursuant to section 605(b) of the RFA, the Commission certifies that the final rule will not have a significant impact on a substantial number of small entities.

XII. Information Collection Statement

The Office of Management and Budget's (OMB) regulations [109] require that OMB approve certain information and recordkeeping requirements imposed by an agency. The information collection requirements in this final rule are contained in the following:

FERC Form No. 2 ''Annual Report of Major Natural Gas Companies'' (1902–0028);

FERC Form No. 2–A, ''Annual Report of Nonmajor Natural Gas Companies'' (1902–0030);

FERC Form No. 11, ''Natural Gas Pipeline Company Monthly Statement'' (1902–0032);

FERC–549, ''Gas Pipeline Rates: Natural Gas Policy Act Title III Transactions'' (1902–0086);

FERC–549B, ''Gas Pipeline Rates: Capacity Release Information'' (1902–0169);

FERC–576, ''Reports on Pipeline Systems Service Interruptions'' (1902–0004);

FERC Form No. 8, ''Underground Gas Storage Report'' (1902–0026); and

FERC Form No. 14, ''Annual Report for Importers and Exporters of Natural Gas'' (1902–0027).

By this rule, the Commission is modernizing its regulations to reflect the current regulatory environment that it instituted with Order No. 636 and the restructuring of the natural gas industry. Specifically, the Commission is revising its regulations to focus on transportation services instead of pipeline sales activities. The revised filing requirements will improve the internal support of a pipeline's filing, reduce the filing burden for all parties, and facilitate pipeline reporting requirements.

The Commission's Office of Pipeline Regulation uses the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas and for general industry oversight under the Natural Gas Act. The Commission's Office of Economic Policy also uses this data in its analysis of interstate natural gas pipelines.

The Commission is submitting to the Office of Management and Budget a notification of these collections of information. Under the 1995 Recordkeeping Reduction Act, each of the forms being revised or retained in this rule will carry the following notice: ''You shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.''

Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, Washington, DC 20426 [Attention: Michael Miller, Information Services Division, (202) 208–1415]. Comments on the requirements of this rule can be sent to the Office of Information and Regulatory Affairs of OMB, Washington, D.C. 20503, (Attention: Desk Officer for Federal Energy Regulatory Commission) FAX: (202) 395–5167.

XIII. Effective Date and Transition Provisions

This Final Rule is effective November 13, 1995 except for the changes to the Uniform System of Accounts and Form Nos. 2, 2–A, and 11, which will be effective January 1, 1996.

The NOPR proposed that the changes to the Uniform System of Accounts and Form Nos. 2 and 2–A be made effective January 1, 1995. The remainder of the proposed rule, including changes to Form No. 11, was proposed to be effective 30 days after publication in the **Federal Register**. Numerous commenters suggested that the effective dates for these changes be delayed and implemented on a prospective basis.

INGAA, ANR, MRT, and El Paso suggest that the effective date for the parts of the final rule that make changes to the Uniform System of Accounts and Form Nos. 2 and 2–A should be the January 1 that falls at least 180 days after publication of the final rule in the **Federal Register**. Other commenters suggest other prospective effective dates: (1) January 1 at least 90 days subsequent to issuance of the final

[103] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Statutes and Regulations, Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[104] 18 CFR 380.4.

[105] *See* 18 CFR 380.4(a)(2)(ii).

[106] 5 U.S.C. 601–612.

[107] 5 U.S.C. 605(b).

[108] Section 601(c) of the RFA defines a ''small entity'' as a small business, a small not-for-profit enterprise, or a small governmental jurisdiction. A ''small business'' is defined by reference to section 3 of the Small Business Act as an enterprise which is ''independently owned and operated and which is not dominant in its field of operation.'' 15 U.S.C. 632(a).

[109] 5 CFR 1320.13.

rule; [110] January 1 following the year of issuance of the final rule; [111] and (3) January 1, 1996.[112]

Panhandle suggests that, prior to the issuance of the final rule on changes in the storage accounting requirements, the Commission conduct a field test of the final proposed storage accounting guidelines with several interstate pipelines for two or three months to thoroughly evaluate the associated benefits and costs so that necessary revisions can be made. Panhandle also suggests that a technical conference would be helpful.

AGA and Consumers Power suggest that all other revisions and changes not be effective until 90 days after issuance of the final rule. MRT seeks clarification that the remaining changes are to take effect only after publication of the final rule in the **Federal Register** and not after publication of the NOPR.

In response to the comments filed, as stated above, the Commission is moving the effective date for the changes to the Uniform System of Accounts and Form Nos. 2 and 2–A to January 1, 1996. In addition, to ensure a seamless transition to the new Form No. 11 filing requirement, the Commission will make the changes to Form No. 11 effective January 1, 1996. All other changes adopted in the final rule will become effective 30 days after the final rule is published in the **Federal Register**.[113] The Commission believes that 30 days is an appropriate time period.

The Commission believes the January 1, 1996 effective date for the revisions to the Uniform System of Accounts and Form Nos. 2, 2–A, and 11 will provide adequate time for pipelines to adapt to the requirements of the final rule and to make the necessary modifications to their recordkeeping systems.

Since the Commission is permitting use of the fixed asset and the inventory methods of accounting for system gas and has simplified our accounting requirements for encroachments and replacements of system gas under the fixed asset model, the Commission sees no need to conduct a field test or to hold a technical conference on our new storage accounting requirements.

A number of commenters raise a variety of implementation issues resulting from the adoption of changes to Uniform System of Accounts and Form Nos. 2 and 2–A in the final rule.

INGAA, Panhandle, and ANR ask the Commission to waive the requirement to report prior year comparative data for the first year of operation under the new requirements. They argue that they need sufficient time to modify pipeline electronic formats and various accounting and reporting systems. AGA suggests that the comparative data requirement for the Statement of Retained Earnings and Statement of Cash Flows should be delayed for one year to avoid restating the prior year and that sufficient time should be provided to modify electronic hardware (local area networks). Consumers Power suggests that the Commission consider adopting transition provisions, which delay the comparative data requirement, so that prior data would not have to be restated.

Since the Commission has postponed the effective date of the changes to the accounting and Form Nos. 2 and 2–A reporting requirements, pipelines will not have to recompute or restate amounts related to 1995 transactions.

In response to concerns raised by commenters about the need to restate prior year's account balances, the Commission will not require such a restatement for FERC accounting and Form Nos. 2 and 2–A reporting purposes. To do so, would result in retroactive application of the accounting and Form Nos. 2 and 2–A rule changes contained in the final rule and would be inconsistent with the accounting and Forms Nos. 2 and 2–A reporting requirements in effect through December 31, 1995.

Rather than waiving the reporting of comparative data or adopting transitional reporting pages, the Commission will permit pipelines to use the previous data (1995) on the Form No. 2 or Form No. 2–A reports for the 1996 reporting year filed in 1997. The pipelines must footnote the place in the report where the previous year's data is reported for the item.[114] However, no amounts need to be reported for the previous year on schedules 302–307.

List of Subjects

18 CFR Part 2

Administrative practice and procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 158

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 201

Natural gas, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 250

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 260

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 381

Electric power plants, Electric utilities, Natural gas Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission is amending Parts 2, 157, 158, 201, 250, 260, 284, 381, and 385, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 42 U.S.C. 4321–4361, 7101–7352.

§ 2.104 [Amended]

2. In § 2.104(a), the words ''(other than under the grandfather provisions of § 284.105 or § 284.223)'' are removed.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

3. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

[110] AGA.

[111] Consumers Power.

[112] KN.

[113] In response to Texas Intrastates, this includes the NGPA Section 311 material.

[114] For example, the footnote should indicate in which Account No. 489 subaccount the 1995 total for revenues from the transportation of gas of others is reported.

§ 157.53 [Amended]

4. In § 157.53, the words ''Drilling of gas or oil wells and testing'' are removed from the section heading and the word ''Testing'' is added in their place, the words ''drilling of gas or oil wells or for the use in the'' are removed from paragraph (a), and the words ''well or the'' are removed from paragraph (b).

PART 158—ACCOUNTS, RECORDS, AND MEMORANDA

5. The authority citation for part 158 is revised to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7102–7352.

6. Section 158.10 is revised to read as follows:

§ 158.10 Examination of Accounts.

All natural gas companies not classified as Class C or Class D prior to January 1, 1984 shall secure for each year, the services of an independent certified public accountant, or independent licensed public accountant (licensed on or before December 31, 1970), certified or licensed by a regulatory authority of a State or other political subdivision of the United States, to test compliance in all material respects of those schedules that are indicated in the General Instructions set out in the applicable Annual Report, Form No. 2 or Form No. 2–A, with the Commission's Uniform System of Accounts and published accounting releases. The Commission expects that identification of questionable matters by the independent accountant will facilitate their early resolution and that the independent accountant will seek advisory rulings by the Commission on such items. This examination shall be deemed supplementary to periodic Commission examinations of compliance.

7. Section 158.11 is revised to read as follows:

§ 158.11 Report of certification.

Each natural gas company not classified as Class C or Class D prior to January 1, 1984 shall file with the Commission a letter or report of the independent accountant certifying approval, together with the original and each copy of the filing of the applicable Annual Report, Form No. 2 or Form No. 2–A, covering the subjects and in the format prescribed in the General Instructions of the applicable Annual Report. The letter or report shall also set forth which, if any, of the examined schedules do not conform to the Commission's requirements and shall describe the discrepancies that exist. The Commission shall not be bound by the certification of compliance made by an independent accountant pursuant to this paragraph.

8. In section 158.12, the words ''The Commission will not recognize any certified public accountant or public accountant through December 31, 1975, who is not in fact independent. Beginning January 1, 1976, and each year thereafter, the'' are removed and the word ''The'' is added in their place.

PART 201—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT

9. The authority citation for Part 201 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352, 7651–7651o.

10. In Part 201, Definitions, Definitions 13, 15, 16, 32B, 38, and 39 are amended by removing the words ''in the case of Major natural gas companies,'' and Definition 29 is amended by removing the words ''(Major natural gas companies).''

11. In Part 201, General Instructions, paragraph 1 is revised to read as follows:

General Instructions

1. *Applicability.* Each natural gas company must apply the system of accounts prescribed by the Commission.

* * * * *

12. In Part 201, General Instructions, paragraphs 8, 12, 14, 15, and 16, the words ''(*Major natural gas companies*)'' are removed at the end of each heading, and in the heading for paragraph 21, the words ''(*Nonmajor natural gas companies*)'' are removed.

13. In Part 201, Gas Plant Instructions, paragraph 1, the words ''Classification of utilities (Major natural gas companies)'' are removed from the heading and the words ''Classification of gas plant at the effective date of the system of accounts'' are added in their place.

14. In Part 201, Gas Plant Instructions, paragraph 3, introductory text, the words ''For Major natural gas companies'' are removed and the words ''A. The'' are added in their place; the words ''(Major and Nonmajor Natural Gas Companies)'' are removed from paragraphs 3A.(17) and 3A.(19), and paragraph 3B. is removed.

15. In Part 201, Gas Plant Instructions, paragraph 4C., the words ''For Major natural gas companies, the'' are removed and the word ''The'' is added in their place.

16. In Part 201, Gas Plant Instructions, paragraph 6A., the words ''(For Nonmajor companies, account 404, Amortization of Limited-Term Gas Plant)'' are removed.

17. In Part 201, Gas Plant Instructions, paragraphs 7C. and 7E., the words ''or in the case of Major companies,'' are removed.

18. In Part 201, Gas Plant Instructions, paragraph 7D., the words ''In the case of Major companies, a parcel,'' are removed and the words ''A parcel'' are added in their place.

19. In Part 201, Gas Plant Instructions, paragraph 7G., the words ''in the case of Major companies,'' are removed.

20. In Part 201, Gas Plant Instructions, paragraph 7H., the words ''(For Major companies, see,'' are removed and the word ''(See'' is added in its place, and the last two sentences of the parenthetical are removed and the words '', and account 797, Abandonment, leases'' are added in their place.

21. In Part 201, Gas Plant Instructions, paragraph 8G., the words ''(Major natural gas companies)'' are removed at the end of Items 2, 6, 11, 12, 18, 19, 22, 28, 29, 32, 35, 36, 39, 40, 41, 42, 44, 45, 47, 49, 52, 53, 55, 58, 60, 61, 62, 64, 65, 66, and 67. 18. In Part 201, Gas Plant Instructions, paragraph 10E., the words ''or in the case of Major companies,'' immediately following the words ''Gas Plant Held for Future Use'' are removed.

22. In Part 201, Gas Plant Instructions, paragraph 10F., the words ''(account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant, in the case of Nonmajor companies)'' and the words ''(account 110 for Nonmajor companies)'' are removed.

23. In Part 201, Gas Plant Instructions, paragraph 10G., the words ''In the case of Major companies, the accounting for'' are removed and the words ''The accounting for'' are added in their place.

24. In Part 201, Gas Plant Instructions, paragraph 11C, the words ''In the case of Major companies, each utility'' are removed and the words ''Each utility'' are added in their place.

25. In Part 201, Gas Plant Instructions, paragraph 12, the words ''(105.1, Production Properties Held for Future Use, in the case of Major companies)'' are removed and the words ''105.1, Production Properties held for Future Use,'' are added in their place, and the words ''(Major Companies)'' in the note are removed.

26. In Part 201, Gas Plant Instructions, paragraph 14, the words ''(Major natural gas companies)'' are removed at the end of the heading.

27. In Part 201, Gas Plant Instructions, paragraph 15A., the words ''(account 180, Other Deferred Debits, in the case

of Nonmajor companies)'' are removed from paragraph A.(1), the words ''(the amounts recorded in account 186 shall be cleared to the appropriate plant accounts, in the case of Nonmajor companies)'' are removed from paragraph A.(2), and the words ''(Account 180 in the case of Nonmajor companies)'' are removed from paragraph A.(3).

28. In Part 201, Gas Plant Instructions, paragraph 16 is removed.

29. In Part 201, Operating Expense Instructions, paragraph 1, the words ''(Major natural gas companies)'' at the end of the heading are removed.

30. In Part 201, Balance Sheet Chart of Accounts, and Balance Sheet Accounts, the words ''(Major only)'' at the end of the headings of Accounts 103, 105.1, 106, 108, 111, 115, 117, 123, 123.1, 125, 126, 128, 131 through 135, 151 through 153, 155, 156, 163, 164.3, 166, 167, 171 through 173, 183.1, 183.2, 184, 185, 188, 202, 203, 205 through 210, 216.1, 222, 238 through 241 are removed.

31. In Part 201, Balance Sheet Chart of Accounts, and Balance Sheet Accounts, Accounts 103.1, 110, 117, 129, 130, and 218 are removed, and in Balance Sheet Chart of Accounts, Accounts 117.1 through 117.4 and their respective titles are added to read as follows:

Balance Sheet Chart of Accounts

* * * * *

117.1 Gas stored-Base gas.
117.2 System balancing gas.
117.3 Gas stored in reservoirs and pipelines-noncurrent.
117.4 Gas owed to system gas.

* * * * *

32. In Part 201, Balance Sheet Accounts, Account 116, paragraph A, the words ''For major companies, see'' are removed, and the word ''See'' is added in their place.

33. In Part 201, Balance Sheet Accounts, Account 117 is removed, and new Special Instructions and Accounts 117.1, 117.2, 117.3, and 117.4 are added to read as follows:

Balance Sheet Accounts

* * * * *

Special Instructions to Accounts 117.1, 117.2 and 117.3

The investment in and use of system gas included in Account 117.1, Gas Stored—Base Gas, and Account 117.2, System Balancing Gas, may be accounted for using either the ''fixed asset'' method or an ''inventory'' method as set forth below. The cost of stored gas included in Account 117.3 must be accounted for using an inventory method.

(a) *Inventory Method*—Gas stored during the year must be priced at cost according to generally accepted methods of cost determination consistently applied from year to year. Transmission expenses for facilities of the utility used in moving the gas to the storage area and expenses of storage facilities cannot be included in the inventory of gas except as may be authorized or directed by the Commission.

Withdrawals of gas must be priced using the first-in-first-out, last-in-first-out, or weighted average cost method, provided the method adopted by the utility is used consistently from year to year and appropriate inventory records are maintained. Approval of the Commission must be obtained for any other pricing method, or change in the pricing method adopted by the utility.

(b) *Fixed Asset Method*—The cost of system gas designated by the Commission as available for transmission load balancing and other uses associated with maintaining efficient transmission operations must be determined from the book balances on the date of adoption of the ''fixed asset'' method. If at the date of adoption, the actual volumes are less than the maximum volumes authorized by the Commission, the deficient volumes are to be priced at the current market price with an equal amount being credited to Account 117.4.

Withdrawals that encroach upon the designated volumes must be priced at an amount equal to the current market price of gas available to the utility. Account 808.1, Gas withdrawn from storage—debit, must be charged with such amount and Account 117.4, Gas owed to system gas, credited.

For the purpose of these instructions, current market price is the delivered spot price of gas in the utility's supply area, as published in a recognized industry journal. The publication used must be the same one identified in the utility's tariff for use in its cash-out provision, if it has one. If the utility does not have a cash-out provision, it must use one publication consistently and identify the publication in its records.

When replacement of the gas is made, the amount carried in Account 117.4 for such volumes must be cleared and Account 808.2, Gas delivered to storage—credit. Any difference between the utility's cost of replacement gas volumes and the amount cleared from Account 117.4 must be recognized as a gain in Account 495, Other gas revenues, or as a loss in Account 813, Other gas supply expenses, with contra entries to Account 808.2.

Gas owned by the utility and injected into its system will be deemed to satisfy any encroachment on system gas first before any other use.

117.1 Gas stored-base gas.

This account is to include the cost of recoverable gas volumes that are necessary, in addition to those volumes for which cost are properly includable in Account 101, Gas plant in service, to maintain pressure and deliverability requirements for each storage facility. Nonrecoverable gas volumes used for this purpose are to be recorded in Account 352.3, Nonrecoverable natural gas. For utilities using the fixed asset method of accounting, the cost of base gas applicable to each gas storage facility shall not be changed from the amount initially recorded except to reflect changes in volumes designated as base gas. If an inventory method is used to account for gas included herein, the utility may, at its election, price withdrawals in accordance with the instructions to Account 117.4.

117.2 System balancing gas.

This account is to be used to record the cost of system gas designated as available for transmission load balancing (including no-notice transportation) and other uses associated with maintaining efficient transmission operations other than gas properly recordable in Account 117.1 or the plant accounts. Detailed records must be kept separately identifying volumes and unit prices of system gas held in underground storage facilities and held in pipelines.

For utilities using fixed asset accounting, the cost initially recorded herein cannot be changed except for adjustments to volumes designated as system gas. Encroachments upon system gas must be accounted for in accordance with the instructions to Account 117.4, Gas owed to system gas.

117.3 Gas stored in reservoirs and pipelines—noncurrent.

This account is to include the cost of stored gas owned by the utility and available for sale or other purposes. Gas included in this account must be accounted for using an inventory method in accordance with the Special Instructions to Accounts 117.1, 117.2, and 117.3 above.

117.4 Gas owed to system gas.

This account is to be used to record encroachments of system gas under the fixed asset method. This account may also be used to record encroachments of base gas for utilities electing to use an inventory method of accounting for system gas. Utilities may revolve

cumulative net imbalances, net all transactions, and record one monthly entry with one month-end price for valuation purposes.

* * * * *

34. In Part 201, Balance Sheet Accounts, Account 154, the words ''For Nonmajor utilities, this account shall include the cost of fuel on hand and unapplied materials and supplies (except meters and house regulators). For both Major and Nonmajor utilities, it'' are removed from the introductory text of paragraph A and the words ''This account'' are added in their place, paragraph C and Note B are removed, Note A is redesignated Note, and the words ''they may be charged to a stores expense clearing account (account 163, Stores Expenses Undistributed, in the case of Major Utilities), and distributed therefrom to the appropriate accounts'' in redesignated Note are removed and the words ''they shall be charged to account 163, Stores expenses Undistributed'' are added in their place.

35. In Part 201, Balance Sheet Accounts, Account 164.1 is revised to read as follows:

Balance Sheet Accounts

* * * * *

164.1 Gas stored—current.

This account shall be debited with such amounts as are credited to Account 117.2, System balancing gas, (for utilities using an inventory method of accounting for system gas) and Account 117.3, Gas Stored in Reservoirs and Pipelines-Noncurrent, to reflect classification for balance sheet purposes of such portion of the inventory of gas stored as represents a current asset according to conventional rules for classification of current assets.

Note: It shall not be considered conformity to conventional rules of current asset classification if the amount included in this account exceeds an amount equal to the cost of estimated withdrawals of gas from storage within the 24-month period from date of the balance sheet, or if the amount represents a volume of gas which, in fact, could not be withdrawn from storage without impairing pressure levels needed for normal operating purposes.

* * * * *

36. In Part 201, Balance Sheet Accounts, Accounts 164.2, paragraph D and 164.3, paragraph D, the words ''Mcf'' and ''Mcf (or Btu),'' respectively, are removed, and the words ''Dth'' are added in their place.

37. In Part 201, Balance Sheet Accounts, Account 174, the current text is designated paragraph A, and a paragraph B is added to read as follows:

Balance Sheet Accounts

* * * * *

174 Miscellaneous current and accrued assets.

* * * * *

B. The utility is to include in a separate subaccount amounts receivable for gas in unbalanced transactions where gas is delivered to another party in exchange, load balancing, or no-notice transportation transactions. (See Account 806.) If the amount receivable is settled by other than gas, Account 495, Other Gas Revenues must be credited or Account 813, Other Gas Supply Expenses, charged for the difference between the amount of the consideration received and the recorded amount of the receivable settled. Records are to be maintained so that there is readily available for each party entering gas exchange, load balancing, or no-notice transportation transactions, the quantity and cost of gas delivered, and the amount and basis of consideration received, if other than gas.

* * * * *

38. In Part 201, Balance Sheet Accounts, Account 186, the words ''For Major companies, this account shall'' are removed from paragraph A, and the words ''This account shall'' are added in their place, paragraph B is removed, paragraph C is redesignated as paragraph B, and all the words in parenthesis in redesignated paragraph B are removed.

39. In Part 201, Balance Sheet Accounts, in the Note following Account 204, the words ''(For Nonmajor companies, account 211, Miscellaneous Paid-In Capital)'' are removed.

40. In Part 201, Balance Sheet Accounts, Account 211, the words ''(In the case of Nonmajor companies, this account shall be kept so as to show the source of the credits includible herein)'' are removed, the ITEMS section and Note B are removed, Note A is redesignated Note, and the words ''(Major companies)'' are removed from the heading of redesignated Note.

41. In Part 201, Balance Sheet Accounts, Account 242 is revised to read as follows:

Balance Sheet Accounts

* * * * *

242 Miscellaneous current and accrued liabilities.

A. This account shall include the amount of all other current and accrued liabilities not provided for elsewhere appropriately designated and supported as to show the nature of each liability.

B. The utility is to include in a separate subaccount amounts payable for gas in unbalanced transactions where gas is received from another party in exchange, load balancing, or no-notice transportation transactions. (See Account 806.) If the amount payable is settled by other than gas, Account 495, Other Gas Revenues, must be credited or Account 813, Other gas supply expenses, charged for the difference between the amount of the consideration paid and the recorded amount of the payable settled. Records are to be maintained so that there is readily available for each party entering gas exchange, load balancing, or no-notice transportation transactions, the quantity and cost of gas received and the amount and basis of consideration paid if other than gas.

* * * * *

42. In Part 201, Gas Plant Chart of Accounts and Gas Plant Accounts, the words ''(Major only)'' at the end of each title of Accounts 363, 363.1 through 363.4, and 364.1 through 364.8 are removed.

43. In Part 201, Gas Plant Accounts, Accounts 302, paragraph C, and 303, paragraph B, the words ''(For Nonmajor Companies; account 110, Accumulated Provisions for Depreciation, Depletion and Amortization of Gas Utility Plant)'' following the words ''Gas Utility Plant'' are removed.

44. In Part 201, Gas Plant Accounts, Account 352.3, paragraph B is revised to read as follows:

Gas Plant Accounts

* * * * *

352.3 Nonrecoverable natural gas.

* * * * *

B. Such nonrecoverable gas shall be priced at cost according to generally accepted methods of cost determination consistently applied. (See the Special Instructions to Accounts 117.1, 117.2, and 117.3.

* * * * *

45. In Part 201, Income Chart of Accounts and Income Accounts, Accounts 403, 404.1, 404.2, 404.3, and 418.1, the words ''(Major only)'' are removed from the end of the headings.

46. In Part 201, Income Chart of Accounts, Accounts 403.1 and 404 are removed.

47. In Part 201, Income Accounts, Accounts 421.1 and 421.2, the words ''(Major only)'' are removed.

48. In Part 201, Operating Revenue Chart of Accounts, Account 489 and its respective title is removed, and Accounts 489.1 through 489.4 and their respective titles are added to read as follows:

Operating Revenue Chart of Accounts

* * * * *

489.1 Revenues from transportation of gas of others through gathering facilities.

489.2 Revenues from transportation of gas of others through transmission facilities.

489.3 Revenues from transportation of gas of others through distribution facilities.

489.4 Revenues from storing gas of others.

* * * * *

49. In Part 201, Operating Revenue Chart of Accounts and Operating Revenue Accounts, Account 482, the words ''(Major only)'' are removed at the end of the headings.

50. In Part 201, Operating Revenue Accounts, Account 481, paragraph C, the words ''(Major companies)'' are removed from the introductory text, and the word ''Mcf'' is removed and the word ''Dth'' is added in its place each time it appears.

51. In Part 201, Operating Revenue Accounts, Account 488, Item 3, the words ''For Major Companies, see,'' are removed and the word ''See'' is added in its place.

52. In Part 201, Operating Revenue Accounts, Account 489 is removed, and new Accounts 489.1, 489.2, 489.3, and 489.4 are added to read as follows:

Operating Revenue Accounts

* * * * *

489.1 Revenues from transportation of gas of others through gathering facilities.

This account includes revenues from transporting gas for other companies through the gathering facilities of the utility.

489.2 Revenues from transportation of gas of others through transmission facilities.

This account includes revenues from transporting gas for other companies through the transmission facilities of the utility.

489.3 Revenues from transportation of gas of others through distribution facilities.

This account includes revenues from transporting gas for other companies through the distribution facilities of the utility.

489.4 Revenues from storing gas of others.

This account includes revenues from storing gas for other companies.

* * * * *

53. In Part 201, Operating Revenue Accounts, Account 491, paragraph B is revised to read as follows:

Operating Revenue Accounts

* * * * *

491 Revenues from natural gas processed by others.

* * * * *

B. The records supporting this account must be maintained so that full information concerning determination of the revenues will be readily available concerning each processor of gas of the utility, including as applicable (a) The Dth of gas delivered to such other party for processing, (b) the Dth of gas received back from the processor, (c) the field, general production area , or other source of the gas processed, (d) Dth of gas used for processing fuel, etc., which is chargeable to the utility, (e) total gallons of each product recovered by the processor and the utility's share thereof, (f) the revenues accruing to the utility, and (g) the basis of determination of the revenues accruing to the utility. Such records shall be maintained even though no revenues are derived from the processor.

54. In Part 201, Operating Revenue Accounts, Account 495 is revised to read as follows:

Operating Revenue Accounts

* * * * *

495 Other gas revenues.

This account includes revenues derived from gas operations not includible in any of the foregoing accounts.

Items

1. Commission on sale or distribution of gas of others when sold under rates filed by such others.

2. Compensation for minor or incidental services provided for others such as customer billing, engineering, etc.

3. Profit or loss on sale of material and supplies not ordinarily purchased for resale and not handled through merchandising and jobbing accounts.

4. Sales of steam, water, or electricity, including sales or transfers to other departments of the utility.

5. Miscellaneous royalties received.

6. Revenues from dehydration and other processing of gas of others, except products extraction where products are received as compensation and sales of such are includible in account 490, Sales of Products Extracted From Natural Gas, and except compression of gas of others, revenues from which are includible in accounts 489.1, 489.2, or 489.3, Revenues from Transportation of Gas of Others.

7. Include in a separate subaccount, revenues in payment for rights and/or benefits received from others which are realized through research, development, and demonstration ventures.

8. Include in a separate subaccount, gains on settlements of imbalance receivables and payables (See Accounts 174 and 242) and gains on replacement of encroachment volumes (See Account 117.4). Records must be maintained and readily available to support the gains included in this account.

9. Include in a separate subaccount revenues from penalties earned pursuant to tariff provisions, including penalties associated with cash-out settlements.

* * * * *

55. In Part 201, Operation and Maintenance Expense Chart of Accounts and Operation and Maintenance Expense Accounts, the words ''(Major only)'' are removed at the end of each title of Accounts 700 through 708, 711 through 724, 725 through 729, 730, 732 through 735, 740 through 742, 751 through 754, 756, 757, 761, 762, 765 through 769, 770 through 775, 777 through 791, 800, 801 through 804.1, 806, 809.1, 809.2, 810, 815 through 822, 824, 830, 831, 833 through 837, 840 through 847.8, 851 through 853, 854 through 857, 859, 861, 862, 865 through 867, 871 through 873, 875 through 877, 880, 885 through 892, 894, 901, 905, 907 through 913, and 916.

56. In Part 201, Operation and Maintenance Expense Chart of Accounts and Operation and Maintenance Expense Accounts, Accounts 724.1, 729.1, 737, 743, 769.1, 792, 799, 812.1, 827, 838, 839, 853.1, 857.1, 868, 880.1, 892.1, 895, 906, 917, and 933 are removed, and Account 935 is redesignated Account 932.

57. In Part 201, Operation and Maintenance Expense Accounts, Account 710, the words ''A. For Major companies, this'' are removed from paragraph A, and the word ''This'' is added in its place, and paragraph B and the Items section are removed.

58. In Part 201, Operation and Maintenance Expense Accounts, Account 731A and 731B, the words ''(for Nonmajor companies, account 154, Plant Materials and Operating Supplies)'' are removed.

59. In Part 201, Operation and Maintenance Expense Accounts, Account 750, the words ''For Major companies, this'' in paragraph A are removed and the word ''This'' is added in their place, and in paragraph B, under Items, the words ''(Major and Nonmajor)'' in the heading ''Items (Major and Nonmajor)'' and the heading ''Nonmajor Only'' and Items 5 through 21 are removed.

60. In Part 201, Operation and Maintenance Expense Accounts, Account 755, the words ''stations (including in the case of Major companies, applicable amounts of fuel stock expenses)'' in paragraph A are removed and the words ''stations, including applicable amounts of fuel stock expenses'' are added in their place, the words ''For Major companies, respective'' in paragraph B are removed

and the word ''Respective'' is added in their place, Note B is removed, Note A is redesignated Note, and the words ''(Major Companies)'' is removed from redesignated Note.

61. In Part 201, Operation and Maintenance Expense Accounts, Account 759, the words ''(Major companies only)'' in the introductory text are removed, the headings ''Major only'' and ''(Nonmajor companies):'' in the Items section are removed, and Items 1 through 18 following Item 5 are removed.

62. In Part 201, Operation and Maintenance Expense Accounts, Account 776, the words ''in the case of Major companies,'' the words ''(Major only)'' following the heading ''Items'', and the Note at the end of the account are removed.

63. In Part 201, Operation and Maintenance Expense Accounts, Account 795, Note, the words ''(in the case of Nonmajor Companies, account 105, Gas Plant Held for Future Use)'' are removed.

64. In Part 201, Operation and Maintenance Expense Accounts, Account 796, Note A, the words ''(in the case of Nonmajor companies, General Instruction 21, Gas Well Records)'' following the words ''Each Plant'' are removed.

65. In Part 201, Operation and Maintenance Expense Accounts, Account 797, paragraph A, the words ''For Major companies, this'' are removed, the word ''This'' is added in their place, and the sentence following the word ''productive.'' is removed, and in paragraph B, the words ''(Major only)'' are removed.

66. In Part 201, Operation and Maintenance Expense Accounts, Account 798, the words ''for Major companies,'' and the words ''for ''Nonmajor companies, see account 186, Miscellaneous Deferred Debits'' are removed.

67. In Part 201, Operation and Maintenance Expense Accounts, Account 805, a new paragraph C is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

805 Other gas purchases.

* * * * *

C. Utilities recognizing revenue for shipper-supplied gas must include the current market price of such gas in this account. Current market price is the delivered spot price of gas in the utility's supply area, as published in a recognized industry journal. The publication used must be the same one identified in the pipeline's tariff for use in its cash-out provision, if it has one. If it has no cash-out provision, the utility must use one publication consistently. Contra entries to those recorded herein must be made to the appropriate transportation revenue account (Account 489.1 through Account 489.4). Records are to be maintained and readily available that include the name of shipper, quantity of gas, and the publication and price used to value shipper-supplied gas.

* * * * *

68. In Part 201, Operation and Maintenance Expense Accounts, Account 806 is revised to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

806 Exchange gas.

A. This account includes debits or credits for the cost of gas in unbalanced transactions where gas is received from or delivered to another party in exchange, load balancing, or no-notice transportation transactions. The costs are to be determined from the current market price of gas at the time gas is tendered for transportation. (See the Special Instructions to Accounts 117.1, 117.2, and 117.3 for the definition of the current market price of gas.) Contra entries to those in this account are to be made to Account 174, Miscellaneous Current and Accrued Assets, for gas receivable and to Account 242, Miscellaneous Current and Accrued Liabilities, for gas deliverable under such transactions. Such entries must be reversed and appropriate contra entries made to this account when gas is received or delivered in satisfaction of the amounts receivable or deliverable.

B. Records must be maintained so that there is readily available for each party entering gas exchange, load balancing, or no-notice transportation transactions, the quantity and cost of gas delivered and received.

* * * * *

69. In Part 201, Operation and Maintenance Expense Accounts, Account 807, paragraph D, the words ''(Major companies'') are removed.

70. In part 201, Operation and Maintenance Expense Accounts, paragraph A of Accounts 808.1 and 808.2 are revised to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

808.1 Gas withdrawn from storage-debit.

A. This account shall include debits for the cost of gas withdrawn from storage during the year. Contra credits for entries to this account shall be made to Account 117.3, Gas Stored in Reservoirs and Pipelines-Noncurrent, or Account 117.4, Gas Owed to System Gas, or Account 164.2, Liquefied Natural Gas Stored, as appropriate. (See the Special Instructions to Accounts 117.1, 117.2, and 117.3).

* * * * *

808.2 Gas delivered to storage-credit

A. This account shall include credits for the cost of gas delivered to storage during the year. Contra debits for entries to this account shall be made to Account 117.3, Gas Stored in Reservoirs and Pipelines-Noncurrent, Account 117.4, Gas Owed to System Gas, or Account 164.2, Liquefied Natural Gas Stored, as appropriate. (See the Special Instructions to Accounts 117.1, 117.2, and 117.3).

* * * * *

71. In Part 201, Operation and Maintenance Expense Accounts, Account 813, the current text is designated paragraph A, and the existing concluding text is added to the end of newly designated paragraph A, the words '', in the case of Major companies,'' are removed from redesignated paragraph A, and a new paragraph B is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

813 Other gas supply expenses.

* * * * *

B. Include in separate subaccounts: (1) losses on settlements of imbalance receivables and payables (See Account 174 and 242) and losses on replacement of encroachment volumes (See the Special Instructions to Accounts 117.1, 117.2 and 117.3); (2) revaluations of storage encroachments; and (3) system gas losses not associated with storage. Appropriate records must be maintained and readily available that include the amount of losses and associated volumes in Dth.

72. In Part 201, Operation and Maintenance Expense Accounts, Account 814, paragraph B and the Items (Nonmajor only) section are removed, and in paragraph A, the designation ''A.'' and the words ''For Major companies, this'' are removed and the word ''This'' is added in their place.

73. In Part 201, Operation and Maintenance Expense Accounts, Account 823, the words ''For Major

companies, see'' are removed and the word ''See'' is added in their place.

74. In Part 201, Operation and Maintenance Expense Accounts, Account 845.6B, the words ''Mcf or Dth, as appropriate,'' are removed and the word ''Dth'' is added in their place.

75. In Part 201, Operation and Maintenance Expense Accounts, Account 850, paragraph B and the Items (Nonmajor only) section are removed, and in paragraph A, the designation ''A.'' and the words ''For Major companies, this'' are removed and the word ''This'' is added in their place.

76. In Part 201, Operation and Maintenance Expense Accounts, Accounts 853.1B and 854B, the word ''Mcf'' is removed and the word ''Dth'' is added in its place.

77. In Part 201, Operation and Maintenance Expense Accounts, Account 858, paragraph B, the word ''Mcf'' is removed and the word ''Dth'' is added in its place each time it appears.

78. In Part 201, Operation and Maintenance Expense Accounts, Account 870, the words ''(Major only)'' are removed, and the words ''For Major companies, see'' are removed, and in their place the word ''See'' is added.

79. In Part 201, Operation and Maintenance Expense Accounts, Account 874, Items, the words ''(Major only)'' in the heading ''Labor (Major only)'' are removed, the heading ''Labor (Nonmajor only):'' and Items 1 through 3 under that heading are removed, the words ''(Major and Nonmajor):'' in the heading ''Materials and Expenses (Major and Nonmajor)'' are removed, and the words ''(Major only)'' are removed from Items 2, and 8 through 12 under that heading.

80. In Part 201, Operation and Maintenance Expense Accounts, Account 878, Items, the words ''(Major only)'' are removed at the end of each Item 1 through 12 and 20.

81. In Part 201, Operation and Maintenance Expense Accounts, Account 879, Items, the words ''(Major only)'' are removed at the end of Items 1, 2, 4, 5, 6, 9, and 11 through 13.

82. In Part 201, Operation and Maintenance Expense Accounts, Account 902, Items, Items 13 and 14 are removed, and a new Item 13 is added to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

902 Meter reading expenses.

* * * * *

13. Transportation, meals and incidental expenses.

* * * * *

83. In Part 201, Operation and Maintenance Expense Accounts, Account 903, the words ''(Major only)'' at the end of Item 26 are removed, and Items 31 and 32 are removed.

84. In Part 201, Operation and Maintenance Expense Accounts, Account 924, the words ''For Major companies, it'' are removed from paragraph A and the word ''It'' is added in their place, the words ''(stores expenses in the case of Nonmajor companies)'' are removed from paragraph (1) of Note B, in paragraph (2) of Note B, the words ''For Major companies, transportation'' are removed and the word ''Transportation'' is added in their place, and the words ''For Nonmajor companies, transportation and garage equipment, to account 933, Transportation expenses.'' are removed, and the words ''(Major only)'' are removed from the title of Note C.

85. In Part 201, Operation and Maintenance Expense Accounts, Account 925, paragraph A, the words ''For Major Companies, it'' are removed and the word ''It'' is added in their place.

86. In Part 201, Operation and Maintenance Expense Accounts, Account 926, paragraph D, the words ''For Major companies, records'' are removed and the word ''Records'' is added in their place.

87. In Part 201, Operation and Maintenance Expense Accounts, Account 930.2, Item 4, the words ''For Major Companies, research'' are removed and the word ''Research'' is added in its place, and the words ''For Nonmajor companies, experimental and general research work for the industry.'' are removed.

88. In Part 201, Operation and Maintenance Expense Accounts, Account 935 is redesignated Account 932, and redesignated Account 932 is amended by removing the words ''For Nonmajor companies, include also other general equipment accounts (not including transportation equipment).'' in paragraph A, revising paragraph B after the words ''the following accounts:'', and adding the Note to read as follows:

Operation and Maintenance Expense Accounts

* * * * *

932 Maintenance of general plant.

* * * * *

B. * * *

Manufactured Gas Production, accounts 708, 742
Natural Gas Production and Gathering, account 769
Natural Gas Production Extraction, account 791
Underground Storage, account 837
Local Storage, account 846.2
Transmission Expenses, account 867
Distribution Expenses, account 894
Merchandising and Jobbing, account 416
Garage, Shops, etc.—appropriate clearing account, if used.

Note: Maintenance of plant included in other general plant equipment accounts shall be included herein unless charged to clearing accounts or to a particular functional maintenance expense indicated by the use of the equipment.

PART 250—FORMS

89. The authority citation for part 250 continues to read as follows:

Authority: 15 U.S.C. 717—717w, 3301—3432; 42 U.S.C. 7101–7352.

90. Section 250.2 is revised to read as follows:

§ 250.2 Form of proposed cancellation of tariff or part thereof (see § 154.602 of this chapter).

When cancelling an entire tariff or an entire rate schedule, the notice of cancellation as set forth below must be filed as a revised tariff sheet superseding the first tariff sheet in the sequence of tariff sheets containing the tariff or part of the tariff being cancelled. When cancelling an individual tariff sheet, the tariff sheet should be designated as reserved for future use.

CANCELLATION OF ENTIRE TARIFF

Notice is hereby given that effective _____ (date) FERC Gas Tariff of _____ (Name of Company) is to be cancelled.

CANCELLATION OF RATE SCHEDULE

Notice is hereby given that effective _____ (date) Rate Schedule _____ constituting _____ Sheet(s) No.(s) _____ of the FERC Gas Tariff of _____ (Name of Company) is to be cancelled.

91. Section 250.3 is revised to read as follows:

§ 250.3 Form of proposed cancellation or termination of contract or part thereof (see § 154.602 of this chapter).

Notice is hereby given that effective the _____ day of _____, _____, the contract with _____, (Name of customer or customers) dated _____ and relating to service under rate schedules(s) _____ (Here identify the rate schedule(s), giving sheet numbers in the Tariff) is to be _____ (Specify whether

it automatically terminates by its terms or is to be canceled by action of the parties)

_____
(Name of natural-gas company filing notice)
By _____

(Title)
Dated _____

92. Section 250.4 is revised to read as follows:

§ 250.4 Form of certificate of adoption (see § 154.603 of this chapter).

The _____
(Exact name of company or person)

_____
(Address)
effective _____
(Effective date of adoption)
hereby adopts, ratifies, and makes its own, in every respect, the Tariff and contracts listed below, which have heretofore been filed with the Federal Energy Regulatory Commission by

_____
(Exact name of predecessor)

_____
(Here identify the Tariff and contracts adopted.)

_____
(Name of successor)
By _____
(Title)
Dated _____

§§ 250.5, 250.7, 250.8, 250.9, 250.10, 250.12, and 250.14 [Removed and reserved]

93. Sections 250.5, 250.7, 250.8, 250.9, 250.10, 250.12, and 250.14 are removed and reserved.

94. In § 250.16, the words ''941 North Capitol Street, NE.,'' are removed from paragraphs(c)(3) and (d)(2), and paragraph (d)(1) is revised to read as follows:

§ 250.16 Format of compliance plan for transportation services and affiliate transactions.

* * * * *

(d) *Transportation Discount Information.* (1) A pipeline that provides transportation service at a discounted rate must maintain, for each billing period, the following information: the name of the shipper being provided the discount; the affiliate's role in the transportation transaction (i.e., shipper, marketer, supplier, seller); the duration of the discount; the maximum rate or fee; the rate or fee actually charged during the billing period; and the quantity of gas scheduled at the discounted rate during the billing period for each delivery point. The discount information with respect to each transaction must be maintained for three years from the date the transaction commences.

* * * * *

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

95. The authority citation for part 260 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

96. In § 260.1, paragraph (a) is amended by adding a heading, and by removing the words ''for the reporting year 1980 and thereafter'', and paragraph (b) is revised to read as follows:

§ 260.1 FERC Form No. 2, Annual report for Major natural gas companies.

(a) *Prescription.* * * *

(b) *Filing requirements.* Each natural gas company, as defined in the Natural Gas Act (15 U.S.C. 717, et seq.) which is a major company (a natural gas company whose combined gas transported or stored for a fee exceeded 50 million Dth in each of the three previous calendar years) must prepare and file with the Commission, on or before April 30 following the close of each calendar year, FERC Form No. 2. Newly established entities must use projected data to determine whether FERC Form No. 2 must be filed. The form must be filed electronically as indicated in the general instructions set out in that form. The format for the electronic filing can be obtained at the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, D.C. 20426. One copy of the report must be retained by the respondent in its files. The conformed copies may be by any legible means of reproduction.

97. In § 260.2, paragraph (a) is amended by removing the words ''for the year 1980 and each year thereafter'', and paragraph (b) is revised to read as follows:

§ 260.2 FERC Form No. 2–A, Annual report for Nonmajor natural gas companies.

* * * * *

(b) *Filing requirements.* Each natural gas company, as defined by the Natural Gas Act, not meeting the filing threshold for FERC Form No. 2, but having total gas sales or volume transactions exceeding 200,000 Dth in each of the three previous calendar years, must prepare and file with the Commission, on or before March 31 following the close of each calendar year, FERC Form No. 2–A. Newly established entities must use projected data to determine whether FERC Form No. 2–A must be filed. The form must be filed electronically as indicated in the general instructions set out in that form. The format for the electronic filing can be obtained at the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, D.C. 20426.

98. Section 260.3 is revised to read as follows:

§ 260.3 FERC Form No. 11, Natural gas pipeline company quarterly statement of monthly data.

(a) This form, which is applicable to natural gas companies designated herein, is designed to obtain on a quarterly basis monthly information concerning selected revenues and associated quantities.

(b)(1) *Who must file.* Each natural gas company, as defined in the Natural Gas Act, whose gas transported or stored for a fee exceeded 50 million Dth in each of the three previous calendar years, must prepare and file with the Commission FERC Form No. 11. The form must be filed electronically. The format for the electronic filing can be obtained at the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, D.C. 20426.

(2) *When to file.* The reports must be filed quarterly on February 14 for data for the three months ending December 31, on May 15 for data for the three months ending March 31, on August 14 for data for the three months ending June 30, and on November 14 for data for the three months ending September 30. Each report must be signed by the person authorized to sign such report, but is not required to be filed under oath.

§ 260.4 [Removed and reserved]

99. Section 260.4 is removed and reserved.

100. In § 260.9, the introductory text of paragraph (b), and paragraphs (c) and (e) are revised to read as follows:

§ 260.9 Report by natural gas pipeline companies on service interruptions occurring on the pipeline system.

* * * * *

(b) Natural gas pipeline companies must report such interruptions to service by any electronic means, including facsimile transmission or telegraph, to the Director, Division of Environmental and Engineering Review, Office of Pipeline Regulation, Federal Energy Regulatory Commission, Washington, DC 20426 (FAX: (202) 208–2853), at the earliest feasible time

following such interruption to service, and must state briefly:

* * * * *

(c) If so directed by the Commission or the Director, Division of Environmental and Engineering Review, the company must provide any supplemental information so as to provide a full report of the circumstances surrounding the occurrence.

* * * * *

(e) Copies of the telegraphic or facsimile report on interruption of service must be sent to the State commission in those States where service has been or might be affected.

§§ 260.11, 260.13, and 260.15 [Removed and reserved]

101. Sections 260.11, 260.13, and 260.15 are removed and reserved.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

102. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7201–7352; 43 U.S.C. 1331–1356.

Subpart A—General Provisions and Conditions

103. In § 284.2, paragraph (b) is revised to read as follows:

§ 284.2 Refunds and interest.

* * * * *

(b) *Interest.* All refunds made pursuant to this section must include interest at an amount determined in accordance with § 154.501(d) of this chapter.

§ 284.3 [Amended]

104. In § 284.3(a), the words '', sale or assignment'' are removed and the words ''or sale'' are added in their place.

105. Section 284.4 is revised to read as follows:

§ 284.4 Reporting.

(a) *Reports in MMBtu.* All reports filed pursuant to this part must indicate quantities of natural gas in MMBtu's. An MMBtu means a million British thermal units. A British thermal unit or Btu means the quantity of heat required to raise the temperature of one pound avoirdupois of pure water from 58.5 degrees to 59.5 degrees Fahrenheit, determined in accordance with paragraphs (b) and (c) of this section.

(b) *Measurement.* The Btu content of one cubic foot of natural gas under the standard conditions specified in paragraph (c) of this section is the number of Btu's produced by the complete combustion of such cubic foot of gas, at constant pressure with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by such combustion is condensed to a liquid state.

(c) *Standard conditions.* The standard conditions for purposes of paragraph (b) of this section are as follows: The gas is saturated with water vapor at 60 degrees Fahrenheit under a pressure equivalent to that of 30.00 inches of mercury at 32 degrees Fahrenheit, under standard gravitational force (980.665 centimeters per second squared).

106. In § 284.6, paragraph (b) is revised to read as follows:

§ 284.6 Rate interpretations.

* * * * *

(b) *Address.* Requests for interpretations should be addressed to: FERC Part 284 Interpretations, Office of General Counsel, Federal Energy Regulatory Commission, Washington, DC 20426.

107. In § 284.7, paragraph (b) is removed, paragraphs (c) and (d) are redesignated (b) and (c), respectively, redesignated paragraph (c)(5)(iv) is removed, and a new paragraph (c)(6) is added to read as follows:

§ 284.7 Rates.

* * * * *

(c) *Rate design.* * * *

(6) *Discount reports.* (i) A pipeline that provides either firm or interruptible transportation service at a discounted rate must file within 15 days of the close of the billing period a report containing the following information:

(A) the full legal name of the shipper being provided the discount;

(B) any corporate affiliation between the transporting pipeline and the shipper;

(C) the maximum rate or fee; and

(D) the rate or fee actually charged during the billing period.

(ii) The requirements of this section do not apply to discounts relating to the release of capacity under § 284.243, unless the release is permanent.

(iii) The discount report information must be provided in electronic format according to specifications that can be obtained at the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, DC 20426.

§ 284.8 [Amended]

108. In § 284.8, paragraph (b)(4)(iii), the word ''of'' is added after the word ''purging'' and before the word ''information'' and in paragraph (b)(5)(i), the words ''941 North Capitol Street NE.,'' are removed.

§ 284.10 [Removed and reserved]

109. Section 284.10 is removed and reserved.

§ 284.11 [Amended]

110. In § 284.11, paragraph (d)(1) is removed and the heading and paragraph designation for paragraph (d)(2) are removed.

§§ 284.13 and 284.14 [Removed and reserved]

111. Sections 284.13 and 284.14 are removed and reserved.

Subpart B—Certain Transportation by Interstate Pipelines

112. Section 284.102(e) is revised to read as follows:

§ 284.102 Transportation by interstate pipelines.

* * * * *

(e) An interstate pipeline must obtain from its shippers certifications including sufficient information to verify that their services qualify under this section. Prior to commencing transportation service described in paragraph (d)(3) of this section, an interstate pipeline must receive the certification required from a local distribution company or an intrastate pipeline pursuant to paragraph (d)(3) of this section.

§ 284.105 [Removed and reserved]

113. Section 284.105 is removed and reserved.

114. In § 284.106, paragraph (a) is revised, paragraphs (b) through (f) are removed, paragraph (g) is redesignated as paragraph (b), the introductory text of redesignated paragraph (b) is revised, and a new paragraph (c) is added to read as follows:

§ 284.106 Reporting requirements.

(a) *Notice of bypass.* An interstate pipeline that provides transportation (except storage) under § 284.102 to a customer that is located in the service area of a local distribution company and will not be delivering the customer's gas to that local distribution company, must file with the Commission, within thirty days after commencing such transportation, a statement that the interstate pipeline has notified the local distribution company and the local distribution company's appropriate regulatory agency in writing of the

proposed transportation prior to commencement.

(b) *Semi-annual storage report.* Within 30 days of the end of each complete storage injection and withdrawal season, the interstate pipeline must file with the Commission a report of storage activity provided under the authority of either § 284.102 or § 284.223, as applicable. The report must be signed under oath by a senior official, consist of an original and five conformed copies, and contain a summary of storage injection and withdrawal activities to include the following:

* * * * *

(c) *Index of customers.* (1) Each calendar quarter, subsequent to the initial implementation of this provision, an interstate pipeline must provide for electronic dissemination of an index of all its firm transportation and storage customers under contract as of the first day of the calendar quarter. Electronic dissemination will be by placing a file, adhering to the requirements set forth by the Commission, on the pipeline's electronic bulletin board in a format which can be downloaded from the electronic bulletin board. The pipeline must also submit the electronic file to the Commission.

(2) Until an interstate pipeline is in compliance with the reporting requirements of this paragraph, the pipeline must comply with the index of customer requirements applicable to transportation and sales under Part 157, set forth under § 154.111 (b) and (c) of this chapter.

(3) For each customer receiving firm transportation or storage service, the index must include the information listed below:

(i) the full legal name of the customer;

(ii) the rate schedule number of the service being provided;

(iii) the contract effective date;

(iv) the contract expiration date;

(v) for transportation service, maximum daily contract quantity (specify unit of measurement);

(vi) for storage service, maximum storage quantity (specify unit of measurement).

(4) The information included in the quarterly index must be available on the electronic bulletin board until the next quarterly index is established. The electronic files must be archived for at least three years.

(5) The requirements of this section do not apply to contracts which relate solely to the release of capacity under § 284.243, unless the release is permanent.

(6) The requirements for the electronic index can be obtained at the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, DC 20426.

Subpart C—Certain Transportation by Intrastate Pipelines

§ 284.122 [Amended]

115. In § 284.122, paragraph (e) is removed.

116. In § 284.123, paragraph (e) is revised to read as follows:

§ 284.123 Rates and charges.

* * * * *

(e) *Filing requirements.* Within 30 days of commencement of new service, any intrastate pipeline that engages in transportation arrangements under this subpart must file with the Commission a statement that describes how the pipeline will engage in these transportation arrangements, including operating conditions, such as, quality standards and financial viability of the shipper. The statement must also include the rate election made by the intrastate pipeline pursuant to paragraph (b) of this section. If the pipeline changes its operations or rate election under this subpart, it must amend the statement and file such amendments not later than 30 days after commencement of the change in operations or the change in rate election.

§ 284.125 [Removed and reserved]

117. Section 284.125 is removed and reserved.

118. In § 284.126, paragraph (a) is revised, paragraphs (b), (e), and (f) are removed, paragraphs (c) and (g) are redesignated (b), and (c), respectively, and redesignated paragraph (b) is revised to read as follows:

§ 284.126 Reporting requirements.

(a) *Notice of bypass.* An intrastate pipeline that provides transportation (except storage) under § 284.122 to a customer that is located in the service area of a local distribution company and will not be delivering the customer's gas to that local distribution company, must file with the Commission within thirty days after commencing such transportation, a statement that the interstate pipeline has notified the local distribution and the local distribution company's appropriate state regulatory agency in writing of the proposed transportation prior to commencement.

(b) *Annual report.* Not later than March 31 of each year, each intrastate pipeline must file an annual report with the Commission and the appropriate state regulatory agency that contains, for each transportation service (except storage) provided during the preceding calendar year under § 284.122, the following information:

(1) The name of the shipper receiving the transportation service;

(2) The type of service performed (*i.e.,* firm or interruptible);

(3) Total volumes transported for the shipper. If it is firm service, the report should separately state reservation and usage quantities; and

(4) Total revenues received for the shipper. If it is firm service, the report should separately state reservation and usage revenues.

* * * * *

Subpart D—Certain Sales by Intrastate Pipelines

119. Section 284.142 is revised to read as follows:

§ 284.142 Sales by intrastate pipelines.

Any intrastate pipeline may, without prior Commission approval, sell natural gas to any interstate pipeline or any local distribution company served by an interstate pipeline. The rates charged by an intrastate pipeline pursuant to this subpart may not exceed the price for gas as negotiated in the contract, plus a fair and equitable transportation rate as determined in accordance with § 284.123.

§§ 284.143 through 284.148 [Removed and reserved]

120. Sections 284.143 through 284.148 are removed and reserved.

Subpart E—Assignment of Contractual Rights to Receive Surplus Natural Gas

Subpart E—[Removed and reserved]

121. Subpart E is removed and reserved.

Subpart G—Blanket Certificates Authorizing Certain Transportation by Interstate Pipelines on Behalf of Others and Services by Local Distribution Companies

122. In § 284.221, the introductory text of paragraph (b)(1) is revised, in paragraph (d)(1), the words ''§ 284.14(e), and'' are removed, and in paragraph (f)(2), the words ''§ 284.222 or'' are removed, to read as follows:

§ 284.221 General rule; transportation by interstate pipelines on behalf of others.

* * * * *

(b) *Application procedure.* (1) An application for a blanket certificate under this section must be filed electronically. The format for the electronic application filing can be obtained at the Federal Energy Regulatory Commission, Division of

Information Services, Public Reference and Files Maintenance Branch, Washington, D.C. 20426, and must include:

* * * * *

§ 284.222 [Removed and reserved]

123. Section 284.222 is removed and reserved.

124. In § 284.223, the section heading is revised, paragraphs (b) through (f) are removed, and a new paragraph (b) is added to read as follows:

§ 284.223 Transportation by interstate pipelines on behalf of shippers.

* * * * *

(b) *Reporting requirements.* Any interstate pipeline transporting gas under this section must comply with each of the reporting requirements specified in § 284.106.

113. In § 284.224, the heading, paragraphs (b)(3), (c) introductory text, (d)(1), (e)(1), and (g) are revised, paragraph (e)(5)(i) is redesignated as paragraph (e)(5), and paragraph (e)(5)(ii) is removed to read as follows:

§ 284.224 Certain transportation and sales by local distribution companies.

* * * * *

(b) *Blanket certificate*— * * *

(3) The Commission will grant a blanket certificate to such local distribution company or Hinshaw pipeline under this section, if required by the present or future public convenience and necessity. Such certificate will authorize the local distribution company to engage in the sale or transportation of natural gas that is subject to the Commission's jurisdiction under the Natural Gas Act, to the same extent that and in the same manner that intrastate pipelines are authorized to engage in such activities by subparts C and D of this part, except as otherwise provided in paragraph (e)(2) of this section.

(c) *Application procedure.* Applications for blanket certificates must be accompanied by the fee prescribed in § 381.207 of this chapter or a petition for waiver pursuant to § 381.106 of this chapter, and shall state:

* * * * *

(d) *Effect of certificate.* (1) Any certificate granted under this section will authorize the certificate holder to engage in transactions of the type authorized by subparts C and D of this part.

* * * * *

(e) *General conditions.* (1) Except as provided in paragraph (e)(2) of this section, any transaction authorized under a blanket certificate is subject to the same rates and charges, terms and conditions, and reporting requirements that apply to a transaction authorized for an intrastate pipeline under subparts C and D of this part.

* * * * *

(g) *Hinshaw pipeline without blanket certificate.* A Hinshaw pipeline that does not obtain a blanket certificate under this section is not authorized to sell or transport natural gas as an intrastate pipeline under subparts C and D of this part.

* * * * *

§§ 284.225 and 284.226 [Removed and reserved]

125. Sections 284.225 and 284.226 are removed and reserved.

§ 284.227 [Amended]

126. In § 284.227, paragraph (d) is removed, and paragraphs (e), (f), and (g) are redesignated (d), (e), and (f).

Subpart I—Emergency Natural Gas Sale, Transportation, and Exchange Transactions

§ 284.266 [Amended]

127. In § 284.266, paragraphs (b) and (c) are removed, and paragraph (d) is redesignated (b).

§ 284.269 [Amended]

128. In § 284.269, the number ''§ 284.144'' is removed, and the number ''§ 284.142'' is added in its place.

Subpart J—Blanket Certificates Authorizing Certain Natural Gas Sales by Interstate Pipelines

§ 284.284 [Amended]

129. In § 284.284(b), the words '', except as adjusted in §§ 284.14 (d) and (e)'' are removed.

130. In § 284.286, paragraph (e) is revised to read as follows:

§ 284.286 Standards of conduct for unbundled sales service.

* * * * *

(e) A pipeline that provides unbundled sales service under § 284.284 must have tariff provisions on file with the Commission indicating how the pipeline is complying with the standards of this section.

131. Section 284.287 is revised to read as follows:

§ 284.287 Implementation and effective date.

(a) Prior to offering any sales service under this subpart J, a pipeline must file revised tariff sheets incorporating the provisions of this subpart J.

(b) A blanket certificate issued under § 284.284 will be effective on the effective date (as approved by the Commission) of the tariff sheets implementing service under that certificate.

Subpart L—Certain Sales for Resale by Non-interstate Pipelines

132. In § 284.402, paragraph (c)(1) is revised, and in the first sentence of paragraph (c)(2), the word ''criteria'' is removed, and the word ''criterion'' is added in its place, to read as follows:

§ 284.402 Blanket marketing certificates.

* * * * *

(c)(1) The authorization granted in paragraph (a) of this section will become effective for an affiliated marketer with respect to transactions involving affiliated pipelines when an affiliated pipeline receives its blanket certificate pursuant to § 284.284.

* * * * *

PART 381—FEES

133. The authority citation for part 381 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 16 U.S.C. 791–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

§ 381.404 [Removed and reserved]

134. Section 381.404 is removed and reserved.

PART 385—RULES OF PRACTICE AND PROCEDURE

135. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 U.S.C. 1–85.

136. In § 385.2011, paragraphs (b), (c)(4), and (d) are revised to read as follows:

§ 385.2011 Procedures for filing on electronic media (Rule 2011).

* * * * *

(b) These procedures also apply to:

(1) Material submitted electronically pursuant to § 154.4 of this chapter.

(2) Certificate and abandonment applications filed under Subparts A, E, and F of Part 157 of this chapter.

(3) Blanket certificate applications filed under Subpart G of Part 284 of this chapter.

(4) Discount rate reports filed pursuant to § 284.7 of this chapter.

(c) *What to file.* * * *

(4) The formats for the electronic filing and the paper copy can be obtained at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance

Branch, Division of Information Services, Washington, DC 20426.

* * * * *

(d)(1) *Where to file.* The electronic media, the paper copies, and accompanying cover letter must be submitted to: Office of the Secretary, Federal Energy Regulatory Commission, Washington, DC 20426.

(2) EDI data submissions must be made as indicated in the electronic filing instructions and formats for the particular form or filing, and the paper copies and accompanying cover letter must be submitted to: Office of the Secretary, Federal Energy Regulatory Commission, Washington, DC 20426.

Note: This Appendix will not be published in the Code of Federal Regulations.

APPENDIX A—PARTIES FILING COMMENTS ON THE NOTICE OF PROPOSED RULEMAKING DOCKET NO. RM95–4–000

Commenter	Abbreviation
American Forest & Paper Association	American Forest.
American Gas Association	AGA.
American Public Gas Association	APGA.
ANR Pipeline Company and Colorado Interstate Gas Company	ANR.
Associated Gas Distributors	AGD.
Association of Texas Intrastate Natural Gas Pipelines	Texas Intrastates.
CNG Transmission Corporation	CNG.
Columbia Gas Distribution Companies	Columbia Distribution.
Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company	Columbia.
Consumers Power Company and Michigan Gas Storage Company	Consumers Power.
Electronic Bulletin Board Working Group	EBB Working Group.
El Paso Natural Gas Company	El Paso.
Enogex, Inc.	Enogex.
Freeport Interstate Pipeline Company	Freeport.
Gaslantic Corporation	Gaslantic.
Great Lakes Gas Transmission Limited Partnership	Great Lakes.
Independent Petroleum Association of America	IPAA.
Interstate Natural Gas Association of America	INGAA.
KN Energy, Inc.	KN.
Kern River Gas Transmission Company	Kern River.
Midwest Gas Services, Inc.	Midwest.
Mississippi River Transmission Corporation and NorAm Gas Transmission Company	MRT.
Missouri Public Service Commission	Missouri.
National Fuel Gas Supply Corporation	National Fuel.
National Registry of Capacity Rights	Registry.
Natural Gas Supply Association	NGSA.
Northern Illinois Gas Company	NI-Gas.
Panhandle Eastern Pipeline Company, Trunkline Gas Company, Texas Eastern Transmission Corporation, and Algonquin Gas Transmission Company.	Panhandle.
Pacific Gas and Electric Company	PG&E.
Process Gas Consumers Group, American Iron and Steel Institute, and Georgia Industrial Group	Industrials.
Producer-Marketer Transportation Group	PMTG.
Southern California Gas Company	SoCal.
Tennessee Gas Pipeline Company, Midwestern Gas Transmission Company, and East Tennessee Natural Gas Company.	Tennessee.
Texas Gas Transmission Corporation	Texas Gas.
Transcontinental Gas Pipe Line Corporation	Transco.
Transok, Inc.	Transok.
United States Department of Energy	DOE.
Williston Basin Interstate Pipeline Company	Williston.
Williams Natural Gas Company	Williams.

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Part III

Department of Health and Human Services

Food and Drug Administration

International Harmonization; Policy on Standards; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94D–0300]

International Harmonization; Policy on Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the agency's policy on the development and use of standards with respect to international harmonization of regulatory requirements and guidelines. Specifically, the policy is intended to address the conditions under which FDA plans to participate with standards bodies outside of FDA, domestic or international, in the development of standards applicable to products regulated by FDA. The policy also covers the conditions under which FDA intends to use the resultant standards, or other available domestic or international standards, in fulfilling its statutory mandates for safeguarding the public health.

FOR FURTHER INFORMATION CONTACT: Linda R. Horton, International Policy Staff (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3344.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 28, 1994 (59 FR 60870), FDA published a draft policy on international harmonization of regulatory requirements and guidelines. The purpose of the draft policy was to articulate FDA's policy on the development and use of standards with respect to international harmonization of regulatory requirements and guidelines. The agency gave interested persons an opportunity to comment on the draft policy document. A discussion of the comments received and the agency's responses is found in section III. of this document.

Background information as well as the text of the policy follow:

International Harmonization of Regulatory Requirements and Guidelines

I. Background

The purpose of this document is to articulate FDA's policy on development and use of standards with respect to international harmonization of regulatory requirements and guidelines. As used throughout this document, the term ''standards'' includes what are commonly referred to as ''consensus standards,'' ''voluntary standards,'' and ''industry standards.'' Also, FDA sometimes accepts standards and makes them mandatory regulatory requirements. Although the draft policy focuses on international harmonization and international standards, its principles are applicable as well to domestic standards activities in which FDA participates.

A. Statutory Mandates for FDA-Regulated Products

FDA is the principal regulatory agency within the Public Health Service (PHS). The agency protects the public health by, among other things, implementing statutory provisions designed to ensure that food is safe and otherwise not adulterated or misbranded; that human and veterinary drugs, human biological products, and medical devices are safe and effective; that cosmetics are safe; and that electronic product radiation is properly controlled. FDA-regulated products must be truthfully and accurately labeled and in compliance with all applicable laws and regulations. The statutory mandates for safeguarding the public health in these product sectors are prescribed in several statutes, notably in the Federal Food, Drug, and Cosmetic Act; the Public Health Service Act; and the Fair Packaging and Labeling Act.

B. International Harmonization of Regulatory Requirements and Guidelines

In recent decades, great changes in the world economy, together with expanded working relationships of regulatory agencies around the globe, have resulted in increased interest in international harmonization of regulatory requirements. Increased international commerce, opportunities to enhance public health through cooperative endeavors, and scarcity of government resources for regulation have resulted in efforts by the regulatory agencies of different nations to work together on standards and harmonize their regulatory requirements. Such harmonization enhances public health protection and improves government efficiencies by reducing both unwarranted contradictory regulatory requirements and redundant applications of similar requirements by multiple regulatory bodies. Harmonization facilitates cooperation in regulatory activities.

Harmonization of FDA's regulatory requirements and guidelines with those of other countries was recently embraced as a pillar of the President's and Vice President's National Performance Review. In *Reinventing Drug and Device Regulation* (April 1995), international harmonization was identified as a high priority initiative across FDA programs. Recognizing the considerable synergy between its domestic policy and its international policy priorities, FDA is sharpening and focusing its planning for enhanced alignment of FDA and international standards.

In 1992, an FDA Task Force on International Harmonization had provided a broad assessment of the goals, scope, and direction of FDA's international activities. These activities were found to comprise a wide variety of efforts by FDA to retain and strengthen its public health safeguards, while striving toward common ground with its foreign government counterparts on product standards, criteria for the assessment of test data, and enforcement procedures. The task force's recommendations for the agency included an overall FDA policy on international harmonization, which is to encourage the initiation and support of efforts, consistent with the agency's goals and principles, that will further the international harmonization of standards and policies for the regulation of products for which FDA has authority. Soon thereafter, FDA's strategic plan began to recognize standards as the premier focus of the agency's international activities.

1. Goals

FDA's goals in participating in international harmonization are:

- To safeguard U.S. public health,
- To assure that consumer protection standards and requirements are met,
- To facilitate the availability of safe and effective products,
- To develop and utilize product standards and other requirements more effectively, and
- To minimize or eliminate inconsistent standards internationally.

2. General Principles

FDA participation in international harmonization efforts should be guided by the following general principles:

- The harmonization activity should be consistent with U.S. Government policies and procedures and should promote U.S. interests with foreign countries.
- The harmonization activity should further FDA's mission to protect the public health by, among other things, ensuring that food is safe and otherwise not adulterated or misbranded; that human and veterinary drugs, human biological products, and medical devices are safe and effective as required by law and are not adulterated or misbranded; that cosmetics are not adulterated or misbranded; that electronic product radiation is properly controlled; and that all of these products are labeled truthfully and informatively.
- FDA's input into international standard setting activities should be open to public scrutiny and should provide the opportunity for the consideration of views of all parties concerned.
- FDA should accept, where legally permissible, the equivalent standards, compliance activities, and enforcement programs of other countries, provided that FDA is satisfied such standards, activities, and programs meet FDA's level of public health protection.
- Scientific and regulatory information and knowledge should be exchanged with foreign government officials, to the extent possible within legal constraints, to expedite the approval of products and protect public health.

Thus, the agency's primary goal in all of its international harmonization activities is to preserve and enhance its ability to accomplish its public health mission. Global harmonization is also approached with the aim of enhancing regulatory effectiveness, by providing more consumer protection with scarce government resources, and increasing worldwide consumer access to safe, effective, and high quality products.

C. Other Obligations and Policies

1. International Agreements

The U.S. Government is a party to international trade agreements. In the United States, such trade agreements become effective only after implementing legislation is signed into law. FDA has participated in recent international trade negotiations to ensure that FDA's requirements are preserved and that regulatory practices can remain focused on fulfilling the agency's mission to protect the public health while being supportive of emerging, broader U.S. Government obligations and policies. In addition, FDA continues to be involved in work of the World Trade Organization (WTO) as well as the North American Free Trade Agreement (NAFTA) committees on sanitary and phytosanitary measures, and on technical barriers to trade, in order to foster international harmonization of regulatory requirements and to facilitate consultation on trade issues. Recently FDA has begun to be involved in other regional activities, e.g., the Forum on Asia Pacific Economic Cooperation (APEC), work on initial steps toward a Free Trade Area of the Americas (FTAA), and work towards a Transatlantic Area that strengthens our ties with Europe.

The principal international trade agreement is the General Agreement on Tariffs and Trade (GATT), which entered into force on January 1, 1948. GATT has since been amended several times following negotiation sessions known as rounds.

The GATT Agreement on Technical Barriers to Trade (TBT), popularly known as the Standards Code, was negotiated during the Tokyo Round of the GATT in the 1970's and entered into force on January 1, 1980. As part of a general effort to reduce unnecessary nontariff barriers to trade, the TBT agreement was intended to promote use by countries of standards, technical regulations, and conformity assessment procedures that are based on work done by international standards bodies. The implementing legislation for the TBT agreement, provided in the Trade Agreements Act of 1979 as amended in 1994 (Pub. L. 103–465; 19 U.S.C 2531–2582), has thus provided additional authority for FDA's international standards activity. To assure that harmonization does not result in lowering safety or quality standards for U.S. consumers, this law contains the safeguard that:

''* * * No standard-related activity of any private person, Federal agency, or State agency shall be deemed to constitute an unnecessary obstacle to the foreign commerce of the United States if the demonstrable purpose of the standards-related activity is to achieve a legitimate domestic objective including, but not limited to, the protection of legitimate health or safety, essential security, environmental, or consumer interests and if such activity does not operate to exclude imported products which fully meet the objectives of such activity.''

The most recent GATT round, the Uruguay Round, was concluded on December 15, 1993, and was formally signed at the Marrakech Ministerial Meeting on April 15, 1994. The new WTO will administer the new GATT and other Uruguay Round agreements, and every country that is a member of the WTO will be required to adhere to all of these agreements. On December 8, 1994, Pub. L. 103–465 was enacted in the United States to approve and implement the Uruguay Round agreements. This law included updating changes in the Trade Agreements Act that reaffirmed the duty of Federal agencies to participate in international standards activities, subject to available resources.

One of the agreements of the Uruguay Round administered by the WTO is the new agreement on TBT, which is similar in many respects to the 1980 TBT agreement. As with the 1980 TBT agreement, the purpose of the new TBT agreement is to ensure that product standards, technical regulations, and related procedures do not create unnecessary obstacles to trade. The new TBT agreement ensures, and clearly states, that each country has the right to establish and maintain technical regulations for the protection of human, animal, and plant life and health and the environment, and for prevention against deceptive practices.

In the new TBT agreement, the term ''standard'' is defined as:

''[A] document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, *with which compliance is not mandatory* [emphasis added]. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.''

Also, ''technical regulation'' is defined as:

''[A] document which lays down product characteristics or their related processes and production methods, including applicable administrative provisions, *with which compliance is mandatory* [emphasis added]. It may also include or deal exclusively with terminology, symbols, packaging, marking, or labelling requirements as they apply to a product, process or production method.''

Thus, in the language of the new TBT agreement, when a government acts to accept a voluntary standard to make it mandatory, the resulting document is a technical regulation. A measure used to ascertain compliance with a standard or technical regulation is a conformity assessment procedure.

The new TBT agreement continues and strengthens the reference to international standards found in the 1980 TBT agreement. Specifically, the agreement states that, where technical regulations are required and relevant international standards exist or their completion is imminent, WTO-member countries shall use them, or the relevant parts of them, as a basis for their technical regulations, except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfillment of the legitimate objectives pursued. Further, the agreement states that, with a view towards harmonizing technical regulations on as wide a basis as possible, WTO-member countries shall play a full part within the limits of their resources in the preparation by appropriate international standards bodies of international standards for products for which they either have adopted or expect to adopt technical regulations.

Another agreement of the Uruguay Round administered by the WTO is the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS agreement). This agreement pertains to those measures intended: (1) To protect animal or plant life or health within a territory from risks arising from the entry, establishment, or spread of pests, diseases, disease-carrying organisms, or disease-causing organisms; (2) to protect human or animal life or health within a territory from risks arising from additives, contaminants, toxins, or disease-causing organisms in foods, beverages, or feedstuffs; (3) to protect human life or health within a territory from risks arising from diseases carried by animals, plants, or products thereof, or from entry, establishment, or spread of pests; or (4) to prevent or limit other damage within a territory from the entry, establishment, or spread of pests.

In order to harmonize SPS measures on as wide a basis as possible, the SPS agreement encourages Members to base their SPS measures on international standards, guidelines, or recommendations. Thus, the SPS agreement, like the new TBT agreement, encourages use of international standards. The SPS agreement refers specifically to standards established by the Codex Alimentarius Commission, as discussed below.

NAFTA also contains TBT and SPS agreements similar to those in the new WTO agreements.

2. Internal U.S. Government Policy

The United States Office of Management and Budget (OMB), in its revision to OMB Circular No. A–119 (58 FR 57643, October 26, 1993), provides policy on Federal use of standards and agency participation in voluntary standards bodies and standards-developing groups:

''It is the policy of the Federal Government in its procurement and regulatory activities to:

a. Rely on voluntary standards, both domestic and international, whenever feasible and consistent with the law and regulation pursuant to law;

b. Participate in voluntary standards bodies when such participation is in the public interest and is compatible with agencies' missions, authorities, priorities, and budget resources; and

c. Coordinate agency participation in voluntary standards bodies so that: (1) The most effective use is made of agency resources and representatives; and (2) the views expressed by such representatives are in the public interest and, as a minimum, do not conflict with the interests and established views of the agencies.''

OMB Circular No. A–119 also establishes additional policy guidance and responsibilities for U.S. Government agencies. It is applicable to all executive agency participation in voluntary standards activities, domestic and international, but not to activities carried out pursuant to treaties and international standardization agreements.

The term ''standard,'' as defined in OMB Circular No. A–119, means:

''* * * a prescribed set of rules, conditions, or requirements concerned with the definition of terms; classification of components; delineation of procedures; specification of dimensions, materials, performance, design, or operations; measurement of quality and quantity in describing materials, products, systems, services, or practices; or descriptions of fit and measurement of size.''

The circular defines ''voluntary standards'' as:

''* * * established generally by private sector bodies, both domestic and international, and are available for use by any person or organization, private or governmental. The term voluntary standard includes what are commonly referred to as ''industry standards'' as well as ''consensus standards,'' but does not include professional standards of personal conduct, institutional codes of ethics, private standards of individual firms, or standards mandated by law, such as those contained in the United States Pharmacopeia and the National Formulary, as referenced in 21 U.S.C. 351.''

These definitions in OMB Circular No. A–119 conform to common usage and are consistent with the usage of these terms throughout this policy document. It should be noted that, under the TBT, ''standards'' are considered to be nonmandatory (i.e., voluntary) unless promulgated into mandatory technical regulations.

II. Standards Programs and Practices Within FDA

A. Purpose of FDA Involvement in Standards

The central purpose of FDA involvement in the development and use of standards is to assist the agency in fulfilling its public health, regulatory mission. The agency intends to participate in the development of standards, domestic or international, and adopt or use standards when such action will enhance its ability to protect consumers and the effectiveness or efficiency of its regulatory efforts. In doing so, FDA recognizes that standards often serve as useful adjuncts to agency regulatory controls and that economies of time and human resources are often realized in solving problems when consensus-building activities are undertaken and conducted in open, public arenas. The working together of FDA staff with other professionals outside the agency in standards bodies effectively multiplies the technical resources available to FDA. Further, standards bodies generally have in place procedures for periodically reviewing and updating completed standards, thus extending the resource-multiplier effect, as well as keeping the solutions current with the state of knowledge. The economy of effort translates into monetary savings to the agency, regulated industries, and ultimately consumers. Further, using standards, especially international ones, is a means to facilitate the harmonization of FDA regulatory requirements with those of foreign governments, to better serve domestic and global public health.

Another benefit of participating in the development of standards at both domestic and international levels is that in sharing technical information with technical groups and professionals outside FDA, staff members have opportunities to learn of other viewpoints on an issue, to establish scientific leadership, and to remain informed of state-of-the-art science and technology.

B. Past and Present Activities

FDA has been involved in standards activities for many years, and on January 25, 1977, the agency promulgated a final regulation, now found at 21 CFR 10.95 (§ 10.95), covering the participation by FDA employees in standards-setting activities outside the agency. This regulation encourages FDA participation in standard-setting activities that are in the public interest and specifies the circumstances under which FDA employees can participate in various types of standards bodies.

Standards activities of multilateral organizations such as the World Health Organization (WHO) and the Organization for Economic Cooperation and Development (OECD, an international organization with 25 member countries with advanced industrial economies) are often important to FDA and frequently involve multiple product types. For example, OECD is developing Genetic Toxicology Test Guidelines that are of interest to all FDA Centers. Similarly, guidelines developed under the International Programme on Chemical Safety of the WHO relate to chemicals that may be in a wide variety of FDA-regulated products, such as food additives, pesticides, drugs, animal drugs, biologics, and devices. The United States Pharmacopeia is a national standard setting body in which FDA officials actively participate.

The principal standards organizations that are not connected with a treaty are the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). Private organizations and government agencies, including FDA, participate in ISO and IEC activities through the American National Standards Institute (ANSI). ANSI represents the United States in the ISO and IEC and coordinates much of the standards development activity in the United States. As discussed below, FDA is active in many ISO, IEC, ANSI, and standards development organization activities. For example, FDA is represented on the Board of Directors of ANSI and on several of its committees and working groups.

1. Foods and Veterinary Medicine

FDA's Center for Food Safety and Applied Nutrition (CFSAN) and Center for Veterinary Medicine (CVM) actively participate in the development of international standards by the Codex Alimentarius Commission (Codex). Codex is an international organization formed in 1962 to facilitate world trade in foods and to promote consumer protection. It is a subsidiary of two United Nations components, the Food and Agriculture Organization (FAO) and the WHO. Codex standards cover food commodity standards (similar to FDA standards of identity), food additives, food contaminants, and residues of veterinary drugs in food. FDA officials chair two Codex committees, the Food Hygiene Committee and the Residues of Veterinary Drugs in Foods Committee, and participate in many others. Through its involvement, FDA has been influential in the establishment of many Codex standards. FDA's procedures for reviewing Codex standards for purposes of regulation are codified in 21 CFR 130.6 and 564.6.

A provision of the United States implementing legislation for the Uruguay Round Agreements, Pub. L. 103–465, requires the President to designate an agency to inform the public, through a notice published in the **Federal Register** each year by June 1, of certain Codex Alimentarius standard-setting activities. The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845, March 27, 1995), designated the Department of Agriculture to have this responsibility, and the first such notice of Codex activities was published in the **Federal Register** of May 23, 1995 (60 FR 27250).

In 1988, the governments of the United States and Canada entered into the Canada-United States Free Trade Agreement (now largely superseded by NAFTA). Since then, officials from CFSAN and CVM have participated in technical working groups responsible for implementation of the chapter of the agreement that deals with agriculture, food, beverage, and related goods (the CUSFTA Technical Working Groups).

Officials from CFSAN and CVM also participate in the development of standards by such domestic and international groups as the Food Chemicals Codex (FCC), AOAC International (previously, the Association of Official Analytical Chemists), expert committees of the WHO, FAO, ISO, and other international consensus standards bodies. Standards developed by these organizations are used by industry, both in the United States and abroad. These standards provide industry with guidance for food grade materials and processes, and thus help elevate the quality of food and food chemicals in domestic and international trade.

CFSAN has adopted many FCC and American Society for Testing and Materials (ASTM) standards and AOAC methods, incorporating them into regulations for both food additives and generally recognized as safe food ingredients. CFSAN also refers industry to relevant FCC, Codex, or ASTM standards when discussing particular issues related to good manufacturing practices. CFSAN accepts many AOAC and equivalent methods for use by laboratories in assaying food and in testing for contaminants in food.

CVM accepts many AOAC and equivalent methods for use by laboratories in testing for drug residues in animal tissues. CVM has adopted the consumption estimates used by the FAO/WHO Joint Expert Committee on Food Additives in the development of standards for drug residues in animal tissues.

CVM is also an active participant in a new harmonization effort under the auspices of the Office of International Epizooties (OIE). This activity is known as the International Cooperation on Harmonisation of Technical

Requirements for Registration of Veterinary Medicinal Products (VICH).

2. Biologics and Drugs

There has been active international standard setting for biological products for more than 50 years. Officials from FDA's Center for Biologics Evaluation and Research (CBER) serve as experts or members of a variety of international committees that perform standard-setting functions. Activities have encompassed collaborative studies to establish international units of measure and to develop internationally accepted standards for control of biologics, including WHO standards. Efforts have been directed to many kinds of biological products, including vaccines, human blood and plasma products, blood testing reagents, and allergenic extracts, and have extended to biotechnology-derived growth factors, cytokines, and monoclonal antibody products.

FDA's Center for Drug Evaluation and Research (CDER), CBER, and the National Center for Toxicological Research (NCTR) actively participate in the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). This ongoing project, begun in 1989, has been undertaken by governmental agencies responsible for regulation of drugs and by industry trade organizations from the European Union (EU), Japan, and the United States. Specifically, ICH is sponsored jointly by the Commission of the European Communities (CEC), the Japanese Ministry of Health and Welfare (MHW), FDA, the European Federation of Pharmaceutical Industries' Associations (EFPIA), the Japan Pharmaceutical Manufacturers Association (JPMA), and the Pharmaceutical Research and Manufacturers Association (PhRMA) of the United States. In addition, the International Federation of Pharmaceutical Manufacturers Associations (IFPMA) participates as an umbrella organization for the pharmaceutical industry and provides the secretariat function for ICH. ICH operates under the direction of the ICH Steering Committee, which is comprised of representatives of these organizations. Official observer status has been given to WHO, the European Free Trade Area (EFTA), and the Health Protection Branch of Canada.

The purposes of ICH are to: (1) Provide a forum for a dialogue between regulatory agencies and the pharmaceutical industry on differences in the technical requirements for product registration (i.e., requirements for product marketing) in the EU, Japan, and the United States; (2) identify areas where modifications in technical requirements or greater mutual acceptance of research and development procedures could lead to more efficient use of human, animal, and material resources without compromising safety, quality, and efficacy; and (3) make recommendations of practical ways to achieve greater harmonization in the interpretation and application of technical guidelines and requirements for registration. The work products of ICH, created in working groups of experts from the regulatory agencies and industry, consist of a series of consensus guidance documents. These guidance documents, after successive ICH steps of review and acceptance, including an opportunity for public review and comment in the respective jurisdictions, are forwarded to the regulatory agencies with the expectation that they will be formally adopted by the agencies.

Officials from both CBER and CDER also participate in a consensus standard setting activity sponsored by the Council for International Organizations of Medical Sciences (CIOMS) that is aimed at standardizing medical definitions and adverse experience reporting.

3. Medical Devices and Radiation-Emitting Products

FDA's Center for Devices and Radiological Health (CDRH) has had extensive involvement with standards in its regulation of medical devices, as well as electronic products that emit radiation. The development of standards to solve problems related to medical devices involves many groups outside FDA. The interaction between CDRH and the manufacturing and health care communities that frequently occurs during the standards development process provides knowledge and insight into the use of products, problems, and the effectiveness of solutions. Frequently, the public discussion of the problem that occurs in the consensus-building process results in the manufacturers and the users of the subject medical device implementing the solution before a standard is formally completed. Thus, CDRH has encouraged participation in the development of standards as a useful adjunct to regulatory controls. CDRH's approach to use and participation in the development of consensus standards was described in a letter dated June 29, 1993, to all interested parties from the Director of CDRH. (This policy did not apply to mandatory performance standards, i.e., technical regulations, for class II medical devices as specified under the Medical Device Amendments of 1976 (Pub. L. 94–295). The Safe Medical Devices Act of 1990, SMDA (Pub. L. 101–629), puts the promulgation of mandatory standards at the discretion of the agency.)

Over 200 completed consensus standards and selected sections of additional draft standards that are not yet complete have been incorporated into guidance documents for applications for conducting clinical trials with investigational devices and applications for permitting devices to be marketed. These guidance documents are widely disseminated by CDRH to all interested parties. Other standards used by CDRH, or which CDRH has helped to develop, concern measurement or test methods, or support good manufacturing practices and quality assurance.

A new ISO Committee, Technical Committee 210 (TC–210) is developing harmonized standards in these areas. Also, CDRH is an active participant in the Global Harmonization Task Force, in cooperation with officials from Canada, the EU, Japan, and other countries.

CDRH has published a notice of a working draft of a final rule to revise the current good manufacturing practice regulations for medical devices (60 FR 37856, July 24, 1995), in part to ensure that they are compatible with specifications for quality systems contained in an international quality standard developed by ISO, namely ISO 9001 ''Quality Systems Part 1. Specification for Design/Development, Production, Installation, and Servicing.'' This standard (ISO 9001) is becoming widely recognized by medical device regulatory authorities worldwide and is finding application in many other industry sectors as well. CDRH officials, working with counterpart foreign government officials, are pursuing in step-wise fashion the harmonization of quality system inspection procedures and enforcement.

The process of harmonizing regulatory requirements is facilitated by using an international standard as a basis. Such harmonization is not only recognized public policy, but for medical devices, it is explicitly encouraged by provisions of SMDA (Pub. L. 101–629), which states, in part, that FDA ''* * * may enter into agreements with foreign countries to facilitate commerce in devices between the United States and [foreign] countries consistent with the requirements of this Act.'' 21 U.S.C. 383.

In a recent (April 1995) program review, CDRH reported that in 1994, 192 Center staff members served as primary and alternate liaison representatives on 440 committees and subcommittees in 38 standards developing organizations (domestic and foreign). CDRH actively reviewed 286 draft standards; of these, 134 were with nine international standards organizations. The experience CDRH has acquired over the years has provided the foundation for the standards policy it announced on June 29, 1993. The essential features of that policy are reflected in the FDA policy presented in section IV. below.

4. Regulatory Affairs

FDA's Office of Regulatory Affairs (ORA) is increasingly active in international standards activities relevant to quality control and conforming assessment, including activities relevant to ISO—9001 and laboratory regulation.

III. Response to Comments

In response to its request for comments on the draft international harmonization policy on standards, FDA received comments from ten organizations (standards setting organizations, trade and professional associations, a manufacturer, and a consumer organization). A discussion of the comments received and the agency's responses follow.

1. In general, the comments supported the agency's proposed international harmonization policy on standards. For example, one comment stated that the policy demonstrated the agency's commitment to the international standards development process as well as international harmonization. Another comment pointed out that the policy will better enable the agency to establish agreements with other global regulatory bodies, and ultimately permit FDA to carry out its mandate to protect the public health in a more efficient and cost effective manner. Other comments stated that the harmonization of regulatory requirements and supportive standards could benefit U.S. companies engaged in international trade. In addition, one of these

comments pointed out that standards reflect technology, and that the first priority with regard to standards should always be to develop standards that represent the best available technological solutions, adding that 'harmony' and 'consistency' can be achieved through the general acceptance of excellent technological solutions. FDA agrees with these comments.

A. Potential for Lowered Standards

2. Two comments stated that harmonization has the potential to result in lowered standards, with potential adverse effects on public health protection. One of the comments expressed concern that FDA was subordinating the public interest in favor of voluntary standards bodies and standards developing groups in a manner that is inconsistent with the vital tasks assigned to the agency to protect health. The second comment argued that the first priority with regard to standards should be to develop standards that represent the best available technological solutions, and that FDA should not support international standards that reflect inferior or compromised technological solutions that become obstacles, rather than benefits, to U.S. industry. Another comment, while agreeing that international standards should be adopted as national standards whenever possible, stated that international standards may sometimes not meet the needs of our health care community, adding that some may contain safety standards only and no performance parameters, and that the international standards may also be inconsistent with our country's codes and regulations.

FDA wishes to reassure those who commented that FDA's participation in international harmonization activities is intended to safeguard the U.S. public health and to assure that consumer protection standards and requirements are met. Indeed, a central principle that guides the agency's international harmonization activities is that the activities should further FDA's mission to protect the public health. In addition, international agreements to which the U.S. Government is a party have provisions that ensure that harmonization activities will not result in lowered standards. For example, the WTO Agreement on SPS provides that each country may determine its appropriate level of protection; therefore, the encouragement to use international standards as the basis for technical regulations will not result in ''downward harmonization.'' Safeguards have been built into the TBT agreement and U.S. implementing legislation that protect the ability of each country to establish requirements necessary to fulfill a legitimate objective. As stated in section I.C.1. above, the implementing legislation for the new TBT agreement, which provides additional authority for FDA's international standards activities, provides further assurance that such harmonization would not result in lowering safety or quality standards for U.S. consumers. Thus, the agency does not agree that harmonization will result in inferior standards. Furthermore, FDA's participation in standards development, consistent with § 10.95 and OMB Circular No. A–119, and FDA's use of standards in its regulatory programs, will be dependent not only on the substantive aspects of the standards for ensuring the safety, effectiveness, and quality of products, but also on the development process for the standard. The standard itself must also comply with all applicable statutes, regulations, and policies.

B. Regulatory Issues

3. One comment stated that any time a voluntary standard is used in a regulation, the scope of that standard needs to be unambiguously determined. The comment used a hypothetical case of a voluntary standard intended to be used in the home environment being inappropriately extended to the hospital environment. The comment argued that if the regulatory need exceeds the scope of the existing voluntary standard, it may indicate the need for yet another voluntary standard that addresses the additional scope, or else provisions may need to be added to the existing voluntary standard so as to accommodate the broader scope in which the standard is to be applied.

The agency agrees that when a voluntary standard is used in a regulation, the scope of that standard should be unambiguously expressed. As stated above, a basic tenet in the development and adoption of a standard is that it contributes to safer, more effective, and higher quality products. Inappropriate application of a standard (voluntary or as part of a technical regulation) would run counter to this notion.

4. Three comments questioned the need to make voluntary standards mandatory regulations. One of the comments stated that if the agency uses a voluntary standard as a ''referee'' standard, which means that the agency uses the voluntary standard as a frame of reference for determining safety and efficacy, there should be no need for the agency to go through the procedures required for creating a regulation. The second comment stated that if technical standards are based on state-of-the-art science and are revised as needed to incorporate advances, they should be voluntary standards as opposed to regulatory requirements. The third comment asserted that existence of a standard does not warrant a regulation and FDA should avoid unnecessary regulations.

The agency agrees that it should avoid unnecessary regulations but notes that there are times when it finds it is necessary to propose and promulgate regulations for the efficient enforcement of the laws it administers. Voluntary standards that will serve agencies' purposes and are consistent with applicable laws and regulations can be adopted and used by Federal agencies. This principle is stated in both FDA's policy and in section 7(a) of OMB Circular No. A–119 on Reliance on Voluntary Standards. Thus, when appropriate, FDA will adopt voluntary standards by referencing them in the regulations it promulgates. In all other instances, these standards will remain voluntary.

As stated above, the purpose of FDA's involvement in the development and use of standards is to assist the agency in fulfilling its public health and regulatory missions. Thus, the agency intends to participate in the development of domestic and international standards, and to adopt or use standards, when such action will enhance its ability to protect consumers and the effectiveness or efficiency of its regulatory efforts.

C. Transparency

5. Four comments addressed the need for transparency during the development of standards, in determining ''official'' use of a standard, or when standards are used in a regulation or adopted as regulations. The comments asserted that, if voluntary standards are incorporated into guidance documents and compliance policy guides and serve as the bases for mandatory standards and other regulations promulgated by FDA, ample opportunity should be provided for interested parties to comment through the established procedures of notice and comment rulemaking. One comment further stated that the policy should include a statement of assurance that FDA will engage potentially affected parties whenever it intends formal inclusion of a voluntary standard in an FDA document or process.

The agency agrees that the development of standards should be conducted in an open fashion. Under § 10.95, one of the criteria for FDA participation in standards-setting bodies is that the group or organization responsible for the standard-setting activity must have a procedure by which an interested person will have an opportunity to provide information and views on the activity and standards involved, and that the information and views will be considered. This is why FDA clearly states in its policy (section IV. below) that one of the factors for FDA's participation in standards development and use is the transparency of the process, i.e., the process must be open to public scrutiny and provide the opportunity for the consideration of views of all parties concerned.

With regard to transparency when standards are used in a regulation or adopted as regulations, under the Administrative Procedure Act (APA), an agency that issues, amends, or revokes a regulation, whether on its own initiative or when petitioned by an interested person, must act in an open manner with adequate time provided for comment from interested parties, which will be considered before a final regulation is promulgated. FDA's rule on promulgation of regulations, found in 21 CFR 10.40, is explicit with respect to the need for transparency of the process and opportunity for participation in the process by interested persons. Other procedural regulations govern guidelines and similar documents (21 CFR 10.90), and interested persons may use correspondence or meetings (21 CFR 10.65), petitions (21 CFR 10.30), or reviews by supervisors (21 CFR 10.75) to raise issues and present views about other nonbinding guidance documents, which provide industry with useful information about recommended or alternative ways to comply with requirements. In fact, FDA has increasingly used public meetings to elicit and share information with regard to its guidance documents and it currently is reviewing the procedures it uses to develop guidance documents to ensure sufficient transparency in the process.

Thus, with regard to the comment that this policy should include a statement of

assurance that FDA will engage potentially interested parties whenever it intends formal inclusion of a voluntary standard in an FDA document or process, the agency finds that it is not necessary to do so as part of this document because there are established mechanisms under the APA and the agency's administrative practices and procedure regulations for obtaining and considering views of interested persons. Of course, FDA is not foreclosing future consideration of additional mechanisms toward this end.

D. Comments on Specific Issues

6. One comment suggested the alternative language, ''The standard contributes to safe and effective products that meet consumers' requirements for quality,'' instead of ''The standard contributes to safer, more effective, and higher quality products'' (section III.A.1., proposed policy) and ''The standard, if adhered to, would help ensure the safety, effectiveness, or quality of products'' (section III.D.1., proposed policy). The alternative language was offered to simplify future negotiations and to allow the agency to participate more fully in standards development and promulgation. The comment also questioned the use of the terms 'safer' and 'more effective' in section III.A.1. of the proposed policy (see above) because it is not clear what the measures for 'safer' and 'more effective' are. The comment further stated that the term ''higher quality'' is relative, leaving open to question who determines higher quality. Finally, the comment added that an international standard could conceivably result in requirements for the same degree of safety, effectiveness, and quality as those required by FDA.

The agency is revising the policy in a manner similar to that suggested by the comment. FDA agrees that an international standard could indeed result in requirements for the same degree of safety, effectiveness, and quality as required by FDA. In fact, one of FDA's guiding principles in its international harmonization activities is that FDA should accept, where legally permissible, equivalent standards of other countries provided such standards meet FDA's goals to facilitate the availability of safe, effective, and properly labeled products. The agency further agrees that the alternative language would allow the agency more flexibility to participate in standards development, without compromising public health, and is therefore amending the policy accordingly.

7. One comment supported FDA's intent to develop standards on the basis of sound scientific and technical information. The comment added that the use of sound scientific and technical information will permit the development of food regulations and standards that cannot be misconstrued as unreasonable trade barriers. However, the comment cautioned that a decision on participation in standards development should be based on the purpose of the standard, not whether the standard is based on sound scientific and technical information.

The agency agrees that while all standards should be based on sound scientific and technical information, not all scientifically sound standards will serve purposes justifying the agency's participation in developing them. FDA's regulation on participation in outside standard-setting activities states that not only will the activity be based upon consideration of sound scientific and technological information, but it also will be designed to protect the public against unsafe, ineffective, or deceptive products and practices (21 CFR 10.95(d)(5)(i)). In addition, OMB Circular No. A–119 states that it is the policy of the Federal Government to participate in voluntary standards bodies when such participation is in the public interest and is compatible with agencies' missions, authorities, priorities, and budget resources. The OMB Circular adds that the providing of agency support to a voluntary standards activity should be limited to that which is clearly in furtherance of an agency's mission and responsibility. These directives are adequately reflected in the policy.

8. One comment suggested that proposed section III.A.4., ''The development of an international standard that achieves the agency's public health objectives is generally, but not always, given a higher priority than the development of a domestic standard,'' be deleted because it is made clear in other parts of the draft policy that FDA complies with U.S. obligations under the GATT, other international trade agreements, and OMB Circular No. A–119.

The agency agrees that the draft policy document does make clear that FDA complies with U.S. obligations under international agreements and the OMB Circular. However, the agency does not agree that proposed section III.A.4. should be deleted. FDA's belief that the development of an international standard that achieves the agency's public health objectives is generally (but not always) given a higher priority than the development of a domestic standard, is an important factor on which agency participation in standards development is based and merits being clearly delineated. This is more so because proposed section III (section VI. of this document), FDA Policy on Standards, is intended to stand on its own as the agency's policy on harmonization of standards and, therefore, needs to be as complete as possible.

FDA emphasizes that there are three routes to development of a harmonized international standard, all of which are favored under the FDA policy: (1) The U.S. voluntary standards community or an agency, such as FDA, develops a U.S. standard and takes it to an international forum so it can be made an international standard; (2) a standard already developed in an international forum (or by another country or a regional standards body) is adopted as a U.S. voluntary or regulatory standard; or (3) a new international standard is developed, ''from scratch,'' in an international forum. Which of these routes is followed in the particular case will vary with the facts of that case. While starting a standards activity in an international forum offers many efficiencies in avoiding duplication of effort, there will continue to be times when it makes sense first to develop a domestic standard (voluntary or regulatory) and then to take it, as appropriate, to an international forum.

9. One comment asserted that the intent of proposed factors III.A.6. and III.D.6., which state: ''Wherever appropriate for the product, the standard stresses product performance rather than product design, but where necessary, covers all factors required to ensure safety, effectiveness, and quality,'' was not clear. The comment added that inspection can be used to prevent poor quality products from being consumed but that safety cannot be inspected into a product. The comment stated further that safety must be designed into products during development, subsequent manufacturing, packaging, and transport. Further, the comment stated that product performance or product functionality issues with regard to safety are the primary focus in the development of food regulations, and therefore, the comment recommended alternative language to that in the proposed policy: ''Wherever appropriate for the product, the standard stresses product safety, performance, and functionality, but where necessary, covers all factors required to ensure safety and effectiveness, including product and process design, and process performance.''

The agency believes that the suggested language is helpful in capturing FDA's intentions in formulating these factors as the basis for participation in standards development, and use of standards in its regulatory programs. Therefore, the agency is making editorial changes in the factors along the lines suggested in the comment.

E. Other Comments

10. One comment recommended that FDA review and revise current U.S. guidelines for toxicity testing of food additives as outlined in the *Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food (Redbook I)*, as well as the proposed guidelines set forth in the revised draft, *Redbook II*, and harmonize with those recommended by the OECD. The comment added that this will allow more universal acceptance of results performed throughout the world and will minimize the need to repeat expensive testing to meet different testing standards in different countries.

The agency has stated that standards activities of organizations such as OECD are often important to FDA, and that the development of international standards, and harmonization with international standards if they achieve the agency's public health objectives, will in most instances be given a high priority.

The agency announced that the draft *Redbook II* was available (March 29, 1993, 58 FR 16536) and solicited comments on the draft revised guidelines. *Redbook II* is being finalized in light of comments received by the agency, including a comment that the guidelines should be harmonized with those of the OECD; the final revised *Redbook II* has yet to be issued. The agency notes that, in revising the guidelines in the *Redbook*, it took into account the fact that differences among guidelines can result in unnecessary duplication of effort and inefficient use of

scarce testing resources. The agency also wants to make clear that the *Redbook* is designed to provide guidance. Strict adherence to *Redbook* guidelines is not a requirement for toxicological studies conducted to establish the safety of an additive.

11. One comment indicated concern that a long standing participation by the United States Public Health Service in the 3–A Sanitary Standards (for dairy and related food industries) is not mentioned in the text of the draft policy. The comment also stated that it is necessary that, as international agreements anticipate trade and importation of equipment, compliance with 3–A Sanitary Standards should be applied by reference to assure receipt of acceptable equipment.

The domestic and international standards-setting organizations or bodies listed under section II.B. of this document are those in which FDA has been or is most actively involved in developing standards. The listing is not meant to be exhaustive nor is it meant to list all standards setting bodies in which FDA has an interest.

12. One comment urged FDA to reference voluntary standards rather than adopting and publishing standards, to maintain appropriate support for standards development. The comment argued that referencing rather than publishing the text of voluntary standards as regulations or guidance protects the standards organizations' copyrights which provide the financial support for national and international programs.

FDA uses standards in the manner described in OMB Circular No. A–119, which states that while voluntary standards adopted by Federal agencies should be referenced along with their dates of issuance and sources of availability in appropriate publications, regulatory orders, and in related in-house documents, such adoption should take into account any applicable requirements of copyright law and other similar restrictions.

13. One comment advised that the value of standards is that they are the consensus product of all technology experts, not just the consensus of experts from government. Therefore, care should be exercised that government participation in voluntary standards organizations and its use of voluntary standards does not lead to an appearance that voluntary standards organizations are unduly directed or influenced by government.

The agency is sensitive to the need for balanced participation in voluntary standards bodies and works within OMB's guidelines regarding policy to be followed by executive agencies in working with voluntary standards bodies. OMB Circular No. A–119 states that agency representatives serving as members of standard-developing groups should participate actively and on a basis of equality with private sector representatives but that, in doing so, agency representatives should not seek to dominate such groups. In addition, the number of individual agency participants in a given voluntary standards activity should be kept to the minimum required for effective presentation of the various program, technical, or other concerns of Federal agencies. Finally, while the circular encourages agency representatives to participate in the policy-making process of voluntary standards bodies, particularly in matters such as establishing priorities, developing procedures for preparing, reviewing and approving standards, and creating standards-developing groups, it also states that in order to maintain the private, nongovernmental nature of such bodies, agency representatives should refrain from decisionmaking involvement in the internal day-to-day management of such bodies.

F. Conclusion

Therefore, after considering the comments received, FDA is issuing this statement of policy.

IV. FDA Policy on Standards [1]

It is the intent of this policy to enable FDA to: (1) Continue to participate in international standards activities that assist it in implementing statutory provisions for safeguarding the public health, (2) increase its efforts to harmonize its regulatory requirements with those of foreign governments, including setting new standards that better serve public health, and (3) respond to laws and policies such as the Trade Agreements Act and OMB Circular No. A–119 that encourage agencies to use international standards that provide the desired degree of protection. Accordingly, it is the policy of FDA, concerning the development and use of standards, that:

A. FDA participation in standards development will be based on the extent to which the development activity and expected standard conform to certain factors, with consideration also being given to the resources available in FDA to devote to the effort and expected efficiencies to be gained as a result of the effort; the factors are as follows:

1. The standard stresses product safety and effectiveness and therefore contributes to safe, effective, and high quality products; when necessary, the standard also covers all factors required to ensure safety and effectiveness, including product and process design, and process performance;

2. The standard is based on sound scientific and technical information and permits revision on the basis of new information;

3. The development process for the standard is transparent (i.e., open to public scrutiny), complies with applicable statutes, regulations, and policies, specifically including § 10.95 and OMB Circular A–119, and is consistent with the codes of ethics that must be followed by FDA employees;

4. The development of an international standard that achieves the agency's public health objectives is generally, but not always, given a higher priority than the development of a domestic standard; and

5. The development of a horizontal standard which applies to multiple types of products is generally, but not always, given higher priority than the development of a vertical standard which applies to a limited range of types of products.

B. FDA is not bound to use standards developed with FDA participation. For example, the agency will not use a standard when, in the judgment of FDA, doing so will compromise the public health.

C. The uses of final (and selected draft or proposed) standards, or selected relevant parts, will include, where appropriate: (1) Incorporating such standards into guidance documents for nonclinical testing, applications for conducting clinical trials with investigational products, and applications for permitting products to be marketed; (2) conducting reviews of such applications; (3) incorporating such standards into compliance policy guides; (4) conducting reviews of test protocols used by firms as part of good manufacturing practices; (5) conducting reviews of study protocols submitted by firms as required for postmarket surveillance studies or programs; (6) serving as the basis for mandatory standards or other regulations promulgated by FDA; and (7) serving as the basis for reference (e.g., evaluation criteria) in a memorandum of understanding with other government agencies.

D. The use of a standard in the regulatory programs of FDA is dependent upon the following factors:

1. The standard stresses product safety and effectiveness and therefore, if adhered to, would help ensure the safety, effectiveness, or quality of products; when necessary, the standard also covers all factors required to ensure safety and effectiveness, including product and process design, and process performance;

2. The standard is based on sound scientific and technical information and is current;

3. The development process for the standard was transparent (i.e., open to public scrutiny), was consistent with the codes of ethics that must be followed by FDA employees, and the standard is not in conflict with any statute, regulation, or policy under which FDA operates;

4. Where a relevant international standard exists or completion is imminent, it will generally be used in preference to a domestic standard, except when the international standard would be, in FDA's judgment, insufficiently protective, ineffective, or otherwise inappropriate; and

5. Where a relevant horizontal standard which applies to multiple types of products exists or its completion is imminent, it will generally be used in preference to a vertical standard, which applies to a limited range of types of products, except when such horizontal standard would be insufficiently protective, ineffective or otherwise inappropriate.

E. FDA employees will comply with agency regulations (§ 10.95) covering participation in standard setting activities outside the agency.

Dated: October 4, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–25070 Filed 10–10–95; 8:45 am]

BILLING CODE 4160–01–F

[1] This policy document does not create or confer any rights, privileges, or benefits, for or on any person, nor does it operate to bind FDA in any way.

federal register

Wednesday
October 11, 1995

Part IV

The President

Federal Register
Vol. 60, No. 196
Wednesday, October 11, 1995

Presidential Documents

Title 3—

The President

Presidential Determination No. 95–46 of September 29, 1995

Loan Guarantee to Israel Program

Memorandum for the Secretary of State

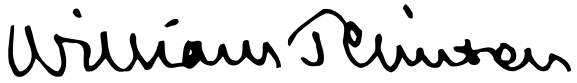
Pursuant to the authority vested in me by Section 226(b) and Section 614(a)(1) of the Foreign Assistance Act of 1961, as amended (''the Act''), 22 U.S.C. 2186(b) and 22 U.S.C. 2364(a)(1), respectively, I hereby determine that:

(1) $303 million of loan guarantee authority pursuant to Section 226(a) and (b) of the Act for Fiscal Year 1996 is subject to the deduction requirements of Section 226(d) of the Act; and

(2) It is important to the security interests of the United States that the aforementioned amount shall be reduced by $243 million without regard to the deduction requirement of Section 226(d) of the Act or any other provision of law within the scope of Section 614 of the Act;

Therefore, I hereby authorize that such $243 million in loan guarantee authority shall remain available pursuant to Section 226 (a) and (b) of the Act and that $60 million in loan guarantee authority shall be deducted pursuant to section 226(d) of the Act.

You are hereby authorized and directed to transmit this determination to Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 29, 1995.

[FR Doc. 95–25375
Filed 10–10–95; 9:50 am]
Billing code 4710–01–M

Presidential Documents

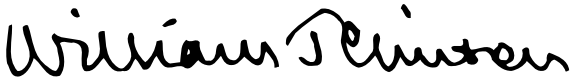
Presidential Determination No. 95–47 of September 29, 1995

Transfer of $2.8 Million in FY 1995 Foreign Military Financing Funds to the Economic Support Fund for El Salvador

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 610(a) of the Foreign Assistance Act of 1961, as amended (the ''Act''), I hereby determine that it is necessary for the purposes of the Act that $2.8 million of funds made available to carry out the provisions of section 23 of the Arms Export Control Act for fiscal year 1995, be transferred to, and consolidated with, funds made available for Chapter 4, Part II of the Act.

You are hereby authorized and directed to report this determination immediately to the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 29, 1995.

[FR Doc. 95–25376
Filed 10–10–95; 9:50 am]
Billing code 4710–01–M

Presidential Documents

Presidential Determination No. 95–48 of September 29, 1995

Presidential Determination on FY 1996 Refugee Admissions Numbers and Authorizations of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act, and Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act, as Amended

Memorandum for the Secretary of State

In accordance with section 207 of the Immigration and Nationality Act (''the Act'') (8 U.S.C. 1157), as amended, and after appropriate consultation with the Congress, I hereby make the following determinations and authorize the following actions:

> The admission of up to 90,000 refugees to the United States during FY 1996 is justified by humanitarian concerns or is otherwise in the national interest; provided, however, that this number shall be understood as including persons admitted to the United States during FY 1996 with Federal refugee resettlement assistance under the Amerasian immigrant admissions program, as provided below.

The 90,000 funded admissions shall be allocated among refugees of special humanitarian concern to the United States as described in the documentation presented to the Congress during the consultations that preceded this determination and in accordance with the following regional allocations; provided, however, that the number allocated to the East Asia region shall include persons admitted to the United States during FY 1996 with Federal refugee resettlement assistance under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, as contained in section 101(e) of Public Law 100–202 (Amerasian immigrants and their family members); provided further that the number allocated to the former Soviet Union shall include persons admitted who were nationals of the former Soviet Union, or in the case of persons having no nationality, who were habitual residents of the former Soviet Union, prior to September 2, 1991:

Africa	7,000
East Asia	25,000
Former Soviet Union/Eastern Europe	45,000
Latin America/Caribbean	6,000
Near East/South Asia	4,000
Unallocated Reserve	3,000

The 3,000 unallocated numbers shall be allocated as needed. Unused admissions numbers allocated to a particular region within the 90,000 ceiling may be transferred to one or more other regions if there is an overriding need for greater numbers for the region or regions to which the numbers are being transferred. You are hereby authorized and directed to consult with the judiciary committees of the Congress prior to any such use of the unallocated numbers or reallocation of numbers from one region to another.

Pursuant to section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(b)(2), I hereby determine that assistance to or on behalf of persons applying for admission to the United States as part of the overseas refugee admissions program will contribute to the foreign policy interests of the United States and designate such persons for this purpose.

An additional 10,000 refugee admissions numbers shall be made available during FY 1996 for the adjustment to permanent-resident status under section 209(b) of the Act (8 U.S.C. 1159(b)) of aliens who have been granted asylum in the United States under section 208 of the Act (8 U.S.C. 1158), as this is justified by humanitarian concerns or is otherwise in the national interest. 8,131 aliens were granted asylum during FY 1994 under section 208 of the Act.

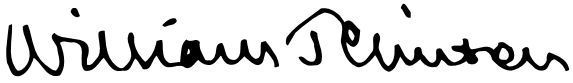
In accordance with section 101(a)(42) of the Act (8 U.S.C. 1101(a)(42)) and after appropriate consultation with the Congress, I also specify that, for FY 1996, the following persons may, if otherwise qualified, be considered refugees for the purpose of admission to the United States within their countries of nationality or habitual residence:

a. Persons in Vietnam

b. Persons in Cuba

c. Persons in the former Soviet Union

You are authorized and directed to report this determination to the Congress immediately and to publish it in the **Federal Register.**



THE WHITE HOUSE,
Washington, September 29, 1995.

[FR Doc. 95–25377
Filed 10–10–95; 9:51 am]
Billing code 4710–01–M

Presidential Documents

Presidential Determination No. 95–50 of September 30, 1995

Suspending Restrictions on U.S. Relations With the Palestine Liberation Organization

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Middle East Peace Facilitation Act of 1994, part E of Title V, Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Public Law 103–236, as amended, (''the Act''), I hereby:

(1) certify that it is in the national interest to suspend application of the following provisions of law until November 1, 1995:

(A) Section 307 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2227), as it applies with respect to the Palestine Liberation Organization or entities associated with it;

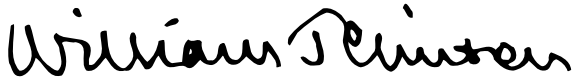
(B) Section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note), as it applies with respect to the Palestine Liberation Organization or entities associated with it;

(C) Section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2502); and

(D) Section 37, Bretton Woods Agreement Act (22 U.S.C. 286w), as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund.

(2) certify that the Palestine Liberation Organization continues to abide by the commitments described in section 583(b)(4) of the Act.

You are authorized and directed to transmit this determination to the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 30, 1995.

[FR Doc. 95–25378
Filed 10–10–95; 9:52 am]
Billing code 4710–01–M

Federal Register

Wednesday
October 11, 1995

Part V

The President

Proclamation 6832—National Disability Employment Awareness Month, 1995

Proclamation 6833—National Children's Day, 1995

Federal Register
Vol. 60, No. 196
Wednesday, October 11, 1995

Presidential Documents

Title 3—

The President

Proclamation 6832 of October 6, 1995

National Disability Employment Awareness Month, 1995

By the President of the United States of America

A Proclamation

''The strongest bond . . . outside of the family relation, should be one uniting all working people, of all nations, and tongues, and kindreds.'' Although written more than a century ago, Abraham Lincoln's words continue to express the ability of common purpose to transcend boundaries. As our Nation prepares for a new century and faces the demands of an increasingly global marketplace, this idea is more important than ever. We are called upon to value every citizen's unique gifts and to encourage all people to participate in moving our Nation forward.

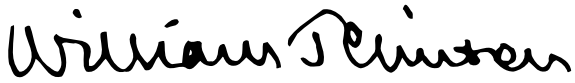
America's employees with disabilities have long been a part of this effort, distinguishing themselves in virtually every occupation and profession. Indeed, study after study has shown that workers with disabilities perform as well as, or better than, other members of the labor force on every factor measured. The typical cost of accommodating a person with a disability on the job is only $200, and this investment is amply repaid—wage earners with disabilities increase productivity and tax revenue, become consumers of goods and services, and reduce the burden on government welfare and entitlement programs.

Yet despite their many contributions and successes, individuals with disabilities remain underrepresented in our Nation's work force. Fully two-thirds of all Americans of working age with severe disabilities are unemployed, though research indicates that two-thirds of that number want to work. We cannot allow this situation to continue, but must unite in a concerted effort to ensure that all people with disabilities have the opportunity to be integral, productive members of our society. Together, our Nation's employers and citizens with disabilities can form an unbeatable team equipped to advance an interest vital to our country—a sound and growing economy.

To recognize the tremendous potential of individuals with disabilities and to encourage all Americans to work toward their integration and full inclusion in the work force, the Congress, by joint resolution, approved August 11, 1945, as amended (36 U.S.C. 155), has designated October of each year as ''National Disability Employment Awareness Month.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 1995 as National Disability Employment Awareness Month. I call upon government officials, educators, and the people of the United States to observe this month with appropriate programs and activities that reaffirm our determination to fulfill both the letter and the spirit of the Americans with Disabilities Act.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 95–25408
Filed 10–10–95; 10:59 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6833 of October 6, 1995

National Children's Day, 1995

By the President of the United States of America

A Proclamation

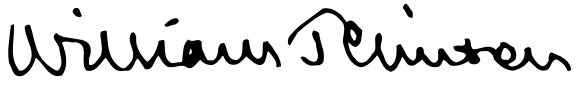
All who have welcomed a child to the world can appreciate the sentiments of Ralph Waldo Emerson who wrote, ''We find a delight in the beauty and happiness of children, that makes the heart too big for the body.'' Worthy of our deepest love and this Nation's most profound concern, children represent our dearest hopes for the future. We must ensure that they receive the care, protection, and guidance each child so richly deserves.

Millions of American children are fortunate to grow up in stable, affectionate families where they enjoy loving support. Yet far too many children lack this essential foundation, and countless young people suffer the terrible effects of hunger, poverty, neglect, and abuse. Today's families are plagued with problems that hinder their ability to tend to their children's well-being. Drug and alcohol addiction, physical and emotional violence, stress, and economic hardship all take a devastating toll.

Every one of us must take responsibility for reversing these alarming trends and for ensuring that all of our children have the opportunity to become vital, productive citizens. By getting involved now, we can reinforce the efforts of schools, churches, communities, and neighborhood organizations to strengthen families and to provide security and structure in our children's lives. Remembering that today's children will be tomorrow's leaders, educators, and parents, let us help them to look forward with hope and enthusiasm for the future.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 8, 1995, as National Children's Day. I urge the American people to express their love and appreciation for children on this day and on every day throughout the year. I invite Federal officials, local governments, communities, and particularly all American families to join together in observing this day with appropriate ceremonies and activities that honor our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 95–25409
Filed 10–10–95; 11:00 am]
Billing code 3195–01–P

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Federal Register

Vol. 60, No. 196

Wednesday, October 11, 1995

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FEDERAL REGISTER PAGES AND DATES, OCTOBER

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

6828.....51877
6829.....51879
6830.....52291
6831.....52827
6832.....53097
6833.....53099

Executive Orders:

11145 (Continued by EO 12974).....51875
11183 (Continued by EO 12974).....51875
11287 (Continued by EO 12974).....51875
11776 (Continued by EO 12974).....51875
12131 (Continued by EO 12974).....51875
12196 (Continued by EO 12974).....51875
12216 (Continued by EO 12974).....51875
12345 (Continued by EO 12974).....51875
12367 (Continued by EO 12974).....51875
12382 (Continued by EO 12974).....51875
12844 (Revoked in part by EO 12974).....51876
12869 (Superseded by EO 12974).....51876
11871 (Continued by EO 12974).....51875
11876 (Continued by EO 12974).....51875
12878 (Revoked by EO 12974).....51876
12882 (Continued by EO 12974).....51875
12887 (See EO 12974).....51876
12900 (Continued by EO 12974).....51875
12901 (Amended by EO 12973).....51665
12905 (Continued by EO 12974).....51875
12912 (See EO 12974).....51876
12973.....51665
12974.....51875
12975.....52063
12976.....52829

Administrative Orders:

Memorandums:

September 29, 1995.....52061
October 2, 1995.....52821
October 3, 1995.....52289

Presidential Determinations:

No. 95–45 of September 29, 1995.....52823
No. 95–46 of September 29, 1995.....53087
No. 95–47 of September 29, 1995.....53089
No. 95–48 of September 29, 1995.....53091
No. 95–50 of September 30, 1995.....53093

5 CFR

532.....51881
870.....51881
871.....51881
872.....51881
874.....51881
2608.....51667
2612.....51667
2635.....51667

Proposed Rules:

251.....51371

7 CFR

8.....52293
301.....52831, 52833
400.....51321
810.....51667
916.....52067
917.....52067
920.....52834
982.....51668
1212.....52835
1443.....51885
1477.....52609
1478.....52609
1942.....52838
1980.....52838
2610.....52840
2620.....52842

Proposed Rules:

300.....51373
318.....51373
985.....52869
1280.....51737
1413.....52634

8 CFR

208.....52068
212.....52068, 52248
214.....52068, 52248
236.....52068
242.....52068
245.....52068, 52248
248.....52068
274a.....52068
299.....52068